

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Safe, Accountable, Flexible, Efficient Transportation Eq-
4 uity Act: A Legacy for Users” or “SAFETEA-LU”.

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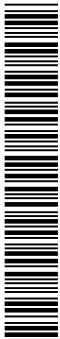
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1 **SEC. 2. GENERAL DEFINITIONS.**

2 In this Act, the following definitions apply:

3 (1) DEPARTMENT.—The term “Department”
4 means the Department of Transportation.

5 (2) SECRETARY.—The term “Secretary” means
6 the Secretary of Transportation.

7 **TITLE I—FEDERAL-AID**
8 **HIGHWAYS**
9 **Subtitle A—Authorization of**
10 **Programs**

11 **SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.**

12 (a) IN GENERAL.—The following sums are author-
13 ized to be appropriated out of the Highway Trust Fund
14 (other than the Mass Transit Account):

15 (1) INTERSTATE MAINTENANCE PROGRAM.—
16 For the Interstate maintenance program under sec-
17 tion 119 of title 23, United States Code—

18 (A) \$4,883,759,623 for fiscal year 2005;
19 (B) \$4,960,788,917 for fiscal year 2006;
20 (C) \$5,039,058,556 for fiscal year 2007;
21 (D) \$5,118,588,513 for fiscal year 2008;
22 and
23 (E) \$5,199,399,081 for fiscal year 2009.



1 (2) NATIONAL HIGHWAY SYSTEM.—For the Na-
2 tional Highway System under section 103 of such
3 title—

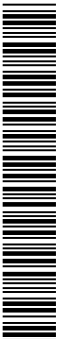
4 (A) \$5,911,200,104 for fiscal year 2005;
5 (B) \$6,005,256,569 for fiscal year 2006;
6 (C) \$6,110,827,556 for fiscal year 2007;
7 (D) \$6,207,937,450 for fiscal year 2008;
8 and
9 (E) \$6,306,611,031 for fiscal year 2009.

10 (3) BRIDGE PROGRAM.—For the bridge pro-
11 gram under section 144 of such title—

12 (A) \$4,187,708,821 for fiscal year 2005;
13 (B) \$4,253,530,131 for fiscal year 2006;
14 (C) \$4,320,411,313 for fiscal year 2007;
15 (D) \$4,388,369,431 for fiscal year 2008;
16 and
17 (E) \$4,457,421,829 for fiscal year 2009.

18 (4) SURFACE TRANSPORTATION PROGRAM.—
19 For the surface transportation program under sec-
20 tion 133 of such title—

21 (A) \$6,860,096,662 for fiscal year 2005;
22 (B) \$6,269,833,394 for fiscal year 2006;
23 (C) \$6,370,469,775 for fiscal year 2007;
24 (D) \$6,472,726,628 for fiscal year 2008;
25 and



1 (E) \$6,576,630,046 for fiscal year 2009.

2 (5) CONGESTION MITIGATION AND AIR QUALITY
3 IMPROVEMENT PROGRAM.—For the congestion miti-
4 gation and air quality improvement program under
5 section 149 of such title—

6 (A) \$1,667,255,304 for fiscal year 2005;

7 (B) \$1,694,101,866 for fiscal year 2006;

8 (C) \$1,721,380,718 for fiscal year 2007;

9 (D) \$1,749,098,821 for fiscal year 2008;

10 and

11 (E) \$1,777,263,247 for fiscal year 2009.

12 (6) HIGHWAY SAFETY IMPROVEMENT PRO-
13 GRAM.—For the highway safety improvement pro-
14 gram under section 148 of such title—

15 (A) \$1,235,810,000 for fiscal year 2006;

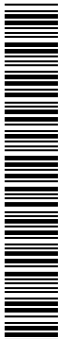
16 (B) \$1,255,709,322 for fiscal year 2007;

17 (C) \$1,275,929,067 for fiscal year 2008;

18 and

19 (D) \$1,296,474,396 for fiscal year 2009.

20 (7) APPALACHIAN DEVELOPMENT HIGHWAY
21 SYSTEM PROGRAM.—For the Appalachian develop-
22 ment highway system program under subtitle IV of
23 title 40, United States Code, \$470,000,000 for each
24 of fiscal years 2005 through 2009.



1 (8) RECREATIONAL TRAILS PROGRAM.—For the
2 recreational trails program under section 206 of title
3 23, United States Code—

- 4 (A) \$60,000,000 for fiscal year 2005;
5 (B) \$70,000,000 for fiscal year 2006;
6 (C) \$75,000,000 for fiscal year 2007;
7 (D) \$80,000,000 for fiscal year 2008; and
8 (E) \$85,000,000 for fiscal year 2009.

9 (9) FEDERAL LANDS HIGHWAYS PROGRAM.—

10 (A) INDIAN RESERVATION ROADS.—For
11 Indian reservation roads under section 204 of
12 such title—

- 13 (i) \$300,000,000 for fiscal year 2005;
14 (ii) \$330,000,000 for fiscal year 2006;
15 (iii) \$370,000,000 for fiscal year
16 2007;
17 (iv) 410,000,000 for fiscal year 2008;
18 and
19 (v) \$450,000,000 for fiscal year 2009.

20 (B) PARK ROADS AND PARKWAYS.—

21 (i) IN GENERAL.—For park roads and
22 parkways under section 204 of such title—

- 23 (I) \$180,000,000 for fiscal year
24 2005;



1 (II) \$195,000,000 for fiscal year
2 2006;
3 (III) \$210,000,000 for fiscal year
4 2007;
5 (IV) \$225,000,000 for fiscal year
6 2008; and
7 (V) \$240,000,000 for fiscal year
8 2009.

9 (ii) MINIMUM ALLOCATION TO CER-
10 TAIN STATES.—A State containing more
11 than 50 percent of the total acreage of the
12 National Park System shall receive not less
13 than 3 percent of any funds appropriated
14 under this subparagraph.

15 (C) REFUGE ROADS.—For refuge roads
16 under section 204 of such title, \$29,000,000 for
17 each of fiscal years 2005 through 2009.

18 (D) PUBLIC LANDS HIGHWAYS.—For Fed-
19 eral lands highways under section 204 of such
20 title—

21 (i) \$260,000,000 for fiscal year 2005;
22 (ii) \$280,000,000 for fiscal year 2006;
23 (iii) \$280,000,000 for fiscal year
24 2007;



1 (iv) \$290,000,000 for fiscal year
2 2008; and

3 (v) \$300,000,000 for fiscal year 2009.

4 (10) NATIONAL CORRIDOR INFRASTRUCTURE
5 IMPROVEMENT PROGRAM.—For the national corridor
6 infrastructure improvement program under section
7 1302 of this Act—

8 (A) \$194,800,000 for fiscal year 2005;

9 (B) \$389,600,000 for fiscal year 2006;

10 (C) \$487,000,000 for fiscal year 2007;

11 (D) \$487,000,000 for fiscal year 2008;

12 and

13 (E) \$389,600,000 for fiscal year 2009.

14 (11) COORDINATED BORDER INFRASTRUCTURE
15 PROGRAM.—For the coordinated border infrastruc-
16 ture program under section 1303 of this Act—

17 (A) \$123,000,000 for fiscal year 2005;

18 (B) \$145,000,000 for fiscal year 2006;

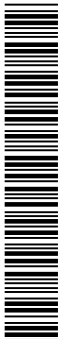
19 (C) \$165,000,000 for fiscal year 2007;

20 (D) \$190,000,000 for fiscal year 2008;

21 and

22 (E) \$210,000,000 for fiscal year 2009.

23 (12) NATIONAL SCENIC BYWAYS PROGRAM.—
24 For the national scenic byways program under sec-
25 tion 162 of such title—



- 1 (A) \$26,500,000 for fiscal year 2005;
2 (B) \$30,000,000 for fiscal year 2006;
3 (C) \$35,000,000 for fiscal year 2007;
4 (D) \$40,000,000 for fiscal year 2008; and
5 (E) \$43,500,000 for fiscal year 2009.

6 (13) CONSTRUCTION OF FERRY BOATS AND
7 FERRY TERMINAL FACILITIES.—For construction of
8 ferry boats and ferry terminal facilities under sec-
9 tion 147 of such title—

- 10 (A) \$38,000,000 for fiscal year 2005;
11 (B) \$55,000,000 for fiscal year 2006;
12 (C) \$60,000,000 for fiscal year 2007;
13 (D) \$65,000,000 for fiscal year 2008; and
14 (E) \$67,000,000 for fiscal year 2009.

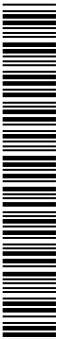
15 (14) PUERTO RICO HIGHWAY PROGRAM.—For
16 the Puerto Rico highway program under section 165
17 of such title—

- 18 (A) \$115,000,000 for fiscal year 2005;
19 (B) \$120,000,000 for fiscal year 2006;
20 (C) \$135,000,000 for fiscal year 2007;
21 (D) \$145,000,000 for fiscal year 2008;

22 and

- 23 (E) \$150,000,000 for fiscal year 2009.

24 (15) PROJECTS OF NATIONAL AND REGIONAL
25 SIGNIFICANCE PROGRAM.—For the projects of na-



1 tional and regional significance program under sec-
2 tion 1301 of this Act—

3 (A) \$177,900,000 for fiscal year 2005;

4 (B) \$355,800,000 for fiscal year 2006;

5 (C) \$444,750,000 for fiscal year 2007;

6 (D) \$444,750,000 for fiscal year 2008;

7 and

8 (E) \$355,800,000 for fiscal year 2009.

9 (16) HIGH PRIORITY PROJECTS PROGRAM.—

10 For the high priority projects program under section
11 117 of title 23, United States Code, \$2,966,400,000
12 for each of fiscal years 2005 through 2009.

13 (17) SAFE ROUTES TO SCHOOL PROGRAM.—For
14 the safe routes to school program under section
15 1404 of this Act—

16 (A) \$54,000,000 for fiscal year 2005;

17 (B) \$100,000,000 for fiscal year 2006;

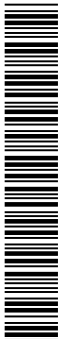
18 (C) \$125,000,000 for fiscal year 2007;

19 (D) \$150,000,000 for fiscal year 2008;

20 and

21 (E) \$183,000,000 for fiscal year 2009.

22 (18) DEPLOYMENT OF MAGNETIC LEVITATION
23 TRANSPORTATION PROJECTS.—For the deployment
24 of magnetic levitation projects under section 1307 of
25 this Act—



1 (A) \$15,000,000 for each of fiscal years
2 2006 and 2007; and

3 (B) \$30,000,000 for each of fiscal years
4 2008 and 2009.

5 (19) NATIONAL CORRIDOR PLANNING AND DE-
6 VELOPMENT AND COORDINATED BORDER INFRA-
7 STRUCTURE PROGRAMS.—For the national corridor
8 planning and development and coordinated border
9 infrastructure programs under sections 1118 and
10 1119 of the Transportation Equity Act for the 21st
11 Century (112 Stat. 161, 163) \$140,000,000 for fis-
12 cal year 2005.

13 (20) HIGHWAYS FOR LIFE.—For the Highways
14 for LIFE Program under section 1502 of this Act—

15 (A) \$15,000,000 for fiscal year 2006; and

16 (B) \$20,000,000 for each of fiscal years
17 2007 through 2009.

18 (21) HIGHWAY USE TAX EVASION PROJECTS.—
19 For highway use tax evasion projects under section
20 1115 of this Act—

21 (A) \$5,000,000 for fiscal year 2005;

22 (B) \$44,800,000 for fiscal year 2006;

23 (C) \$53,300,000 for fiscal year 2007; and

24 (D) \$12,000,000 for each of fiscal years
25 2008 and 2009.



1 (b) DISADVANTAGED BUSINESS ENTERPRISES.—

2 (1) DEFINITIONS.—In this subsection, the fol-
3 lowing definitions apply:

4 (A) SMALL BUSINESS CONCERN.—The
5 term “small business concern” has the meaning
6 that term has under section 3 of the Small
7 Business Act (15 U.S.C. 632), except that the
8 term shall not include any concern or group of
9 concerns controlled by the same socially and
10 economically disadvantaged individual or indi-
11 viduals which has average annual gross receipts
12 over the preceding 3 fiscal years in excess of
13 \$19,570,000, as adjusted annually by the Sec-
14 retary for inflation.

15 (B) SOCIALLY AND ECONOMICALLY DIS-
16 ADVANTAGED INDIVIDUALS.—The term “so-
17 cially and economically disadvantaged individ-
18 uals” has the meaning that term has under sec-
19 tion 8(d) of the Small Business Act (15 U.S.C.
20 637(d)) and relevant subcontracting regulations
21 issued pursuant to that Act, except that women
22 shall be presumed to be socially and economi-
23 cally disadvantaged individuals for purposes of
24 this subsection.



1 (2) GENERAL RULE.—Except to the extent that
2 the Secretary determines otherwise, not less than 10
3 percent of the amounts made available for any pro-
4 gram under titles I, III, and V of this Act and sec-
5 tion 403 of title 23, United States Code, shall be ex-
6 pended through small business concerns owned and
7 controlled by socially and economically disadvan-
8 taged individuals.

9 (3) ANNUAL LISTING OF DISADVANTAGED BUSI-
10 NESS ENTERPRISES.—Each State shall annually—

11 (A) survey and compile a list of the small
12 business concerns referred to in paragraph (1)
13 and the location of the concerns in the State;
14 and

15 (B) notify the Secretary, in writing, of the
16 percentage of the concerns that are controlled
17 by women, by socially and economically dis-
18 advantaged individuals (other than women),
19 and by individuals who are women and are oth-
20 erwise socially and economically disadvantaged
21 individuals.

22 (4) UNIFORM CERTIFICATION.—The Secretary
23 shall establish minimum uniform criteria for State
24 governments to use in certifying whether a concern
25 qualifies for purposes of this subsection. The min-



1 imum uniform criteria shall include, but not be lim-
2 ited to, on-site visits, personal interviews, licenses,
3 analysis of stock ownership, listing of equipment,
4 analysis of bonding capacity, listing of work com-
5 pleted, resume of principal owners, financial capac-
6 ity, and type of work preferred.

7 (5) COMPLIANCE WITH COURT ORDERS.—Noth-
8 ing in this subsection limits the eligibility of an enti-
9 ty or person to receive funds made available under
10 titles I, III, and V of this Act and section 403 of
11 title 23, United States Code, if the entity or person
12 is prevented, in whole or in part, from complying
13 with paragraph (1) because a Federal court issues a
14 final order in which the court finds that the require-
15 ment of paragraph (1), or the program established
16 under paragraph (1), is unconstitutional.

17 **SEC. 1102. OBLIGATION CEILING.**

18 (a) GENERAL LIMITATION.—Subject to subsections
19 (g) and (h), and notwithstanding any other provision of
20 law, the obligations for Federal-aid highway and highway
21 safety construction programs shall not exceed—

- 22 (1) \$34,422,400,000 for fiscal year 2005;
23 (2) \$36,032,343,903 for fiscal year 2006;
24 (3) \$38,244,210,516 for fiscal year 2007;
25 (4) \$39,585,075,404 for fiscal year 2008; and



1 (5) \$41,199,970,178 for fiscal year 2009.

2 (b) EXCEPTIONS.—The limitations under subsection

3 (a) shall not apply to obligations under or for—

4 (1) section 125 of title 23, United States Code;

5 (2) section 147 of the Surface Transportation

6 Assistance Act of 1978 (23 U.S.C. 144 note; 92

7 Stat. 2714);

8 (3) section 9 of the Federal-Aid Highway Act

9 of 1981 (Public Law 97–134; 95 Stat. 1701);

10 (4) subsections (b) and (j) of section 131 of the

11 Surface Transportation Assistance Act of 1982

12 (Public Law 97–424; 96 Stat. 2119);

13 (5) subsections (b) and (c) of section 149 of the

14 Surface Transportation and Uniform Relocation As-

15 sistance Act of 1987 (Public Law 100–17; 101 Stat.

16 198);

17 (6) sections 1103 through 1108 of the Inter-

18 modal Surface Transportation Efficiency Act of

19 1991 (Public Law 102–240; 105 Stat. 2027);

20 (7) section 157 of title 23, United States Code

21 (as in effect on June 8, 1998);

22 (8) section 105 of title 23, United States Code

23 (as in effect for fiscal years 1998 through 2004, but

24 only in an amount equal to \$639,000,000 for each

25 of those fiscal years);



1 (9) Federal-aid highway programs for which ob-
2 ligation authority was made available under the
3 Transportation Equity Act for the 21st Century
4 (Public Law 105–178; 112 Stat. 107) or subsequent
5 public laws for multiple years or to remain available
6 until used, but only to the extent that the obligation
7 authority has not lapsed or been used;

8 (10) section 105 of title 23, United States Code
9 (but, for each of fiscal years 2005 through 2009,
10 only in an amount equal to \$639,000,000 per fiscal
11 year); and

12 (11) section 1603 of this Act, to the extent that
13 funds obligated in accordance with that section were
14 not subject to a limitation on obligations at the time
15 at which the funds were initially made available for
16 obligation.

17 (c) DISTRIBUTION OF OBLIGATION AUTHORITY.—
18 For each of fiscal years 2005 through 2009, the
19 Secretary—

20 (1) shall not distribute obligation authority pro-
21 vided by subsection (a) for the fiscal year for—

22 (A) amounts authorized for administrative
23 expenses and programs by section 104(a) of
24 title 23, United States Code;



1 (B) programs funded from the administra-
2 tive takedown authorized by section 104(a)(1)
3 of title 23, United States Code (as in effect on
4 the date before the date of enactment of this
5 Act); and

6 (C) amounts authorized for the highway
7 use tax evasion program and the Bureau of
8 Transportation Statistics;

9 (2) shall not distribute an amount of obligation
10 authority provided by subsection (a) that is equal to
11 the unobligated balance of amounts made available
12 from the Highway Trust Fund (other than the Mass
13 Transit Account) for Federal-aid highway and high-
14 way safety programs for previous fiscal years the
15 funds for which are allocated by the Secretary;

16 (3) shall determine the ratio that—

17 (A) the obligation authority provided by
18 subsection (a) for the fiscal year, less the aggre-
19 gate of amounts not distributed under para-
20 graphs (1) and (2); bears to

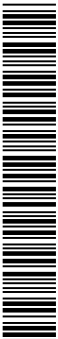
21 (B) the total of the sums authorized to be
22 appropriated for the Federal-aid highway and
23 highway safety construction programs (other
24 than sums authorized to be appropriated for
25 provisions of law described in paragraphs (1)



1 through (9) of subsection (b) and sums author-
2 ized to be appropriated for section 105 of title
3 23, United States Code, equal to the amount
4 referred to in subsection (b)(10) for the fiscal
5 year), less the aggregate of the amounts not
6 distributed under paragraphs (1) and (2);

7 (4)(A) shall distribute the obligation authority
8 provided by subsection (a) less the aggregate
9 amounts not distributed under paragraphs (1) and
10 (2), for sections 1301, 1302, and 1934 of this Act,
11 sections 117 but individual for each of project num-
12 bered 1 through 3676 listed in the table contained
13 in section 1702 of this Act and 144(g) of title 23,
14 United States Code, and section 14501 of title 40,
15 United States Code, and, during fiscal year 2005,
16 amounts for programs, projects, and activities au-
17 thorized by section 117 of title I of division H of the
18 Consolidated Appropriations Act, 2005 (Public Law
19 108-447; 118 Stat. 3212), so that the amount of
20 obligation authority available for each of such sec-
21 tions is equal to the amount determined by
22 multiplying—

23 (i) the ratio determined under paragraph
24 (3); by



1 (ii) the sums authorized to be appropriated
2 for that section for the fiscal year; and

3 (B) shall distribute \$2,000,000,000 for section
4 105 of title 23, United States Code;

5 (5) shall distribute among the States the obliga-
6 tion authority provided by subsection (a), less the
7 aggregate amounts not distributed under paragraphs
8 (1) and (2), for each of the programs that are allo-
9 cated by the Secretary under this Act and title 23,
10 United States Code (other than to programs to
11 which paragraph (1) applies), by multiplying—

12 (A) the ratio determined under paragraph
13 (3); by

14 (B) the amounts authorized to be appro-
15 priated for each such program for the fiscal
16 year; and

17 (6) shall distribute the obligation authority pro-
18 vided by subsection (a), less the aggregate amounts
19 not distributed under paragraphs (1) and (2) and
20 the amounts distributed under paragraphs (4) and
21 (5), for Federal-aid highway and highway safety
22 construction programs (other than the amounts ap-
23 portioned for the equity bonus program, but only to
24 the extent that the amounts apportioned for the eq-
25 uity bonus program for the fiscal year are greater



1 than \$2,639,000,000, and the Appalachian develop-
2 ment highway system program) that are apportioned
3 by the Secretary under this Act and title 23, United
4 States Code, in the ratio that—

5 (A) amounts authorized to be appropriated
6 for the programs that are apportioned to each
7 State for the fiscal year; bear to

8 (B) the total of the amounts authorized to
9 be appropriated for the programs that are ap-
10 portioned to all States for the fiscal year.

11 (d) REDISTRIBUTION OF UNUSED OBLIGATION AU-
12 THORITY.—Notwithstanding subsection (c), the Secretary
13 shall, after August 1 of each of fiscal years 2005 through
14 2009—

15 (1) revise a distribution of the obligation au-
16 thority made available under subsection (c) if an
17 amount distributed cannot be obligated during that
18 fiscal year; and

19 (2) redistribute sufficient amounts to those
20 States able to obligate amounts in addition to those
21 previously distributed during that fiscal year, giving
22 priority to those States having large unobligated bal-
23 ances of funds apportioned under sections 104 and
24 144 of title 23, United States Code.



1 (e) APPLICABILITY OF OBLIGATION LIMITATIONS TO
2 TRANSPORTATION RESEARCH PROGRAMS.—

3 (1) IN GENERAL.—Except as provided in para-
4 graph (2), obligation limitations imposed by sub-
5 section (a) shall apply to contract authority for
6 transportation research programs carried out
7 under—

8 (A) chapter 5 of title 23, United States
9 Code; and

10 (B) title V (research title) of this Act.

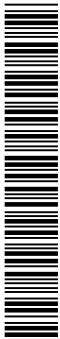
11 (2) EXCEPTION.—Obligation authority made
12 available under paragraph (1) shall—

13 (A) remain available for a period of 3 fis-
14 cal years; and

15 (B) be in addition to the amount of any
16 limitation imposed on obligations for Federal-
17 aid highway and highway safety construction
18 programs for future fiscal years.

19 (f) REDISTRIBUTION OF CERTAIN AUTHORIZED
20 FUNDS.—

21 (1) IN GENERAL.—Not later than 30 days after
22 the date of distribution of obligation authority under
23 subsection (c) for each of fiscal years 2005 through
24 2009, the Secretary shall distribute to the States
25 any funds that—



1 (A) are authorized to be appropriated for
2 the fiscal year for Federal-aid highway pro-
3 grams; and

4 (B) the Secretary determines will not be
5 allocated to the States, and will not be available
6 for obligation, in the fiscal year due to the im-
7 position of any obligation limitation for the fis-
8 cal year.

9 (2) RATIO.—Funds shall be distributed under
10 paragraph (1) in the same ratio as the distribution
11 of obligation authority under subsection (c)(6).

12 (3) AVAILABILITY.—Funds distributed under
13 paragraph (1) shall be available for any purpose de-
14 scribed in section 133(b) of title 23, United States
15 Code.

16 (g) SPECIAL LIMITATION CHARACTERISTICS.—Obli-
17 gation authority distributed for a fiscal year under sub-
18 section (c)(4) for the provision specified in subsection
19 (c)(4) shall—

20 (1) remain available until used for obligation of
21 funds for that provision; and

22 (2) be in addition to the amount of any limita-
23 tion imposed on obligations for Federal-aid highway
24 and highway safety construction programs for future
25 fiscal years.



1 (h) ADJUSTMENT IN OBLIGATION LIMIT.—

2 (1) IN GENERAL.—Subject to the last sentence
3 of section 110(a)(2) of title 23, United States Code,
4 a limitation on obligations imposed by subsection (a)
5 for a fiscal year shall be adjusted by an amount
6 equal to the amount determined in accordance with
7 section 251(b)(1)(B) of the Balanced Budget and
8 Emergency Deficit Control Act of 1985 (2 U.S.C.
9 901(b)(1)(B)) for the fiscal year.

10 (2) DISTRIBUTION.—An adjustment under
11 paragraph (1) shall be distributed in accordance
12 with this section.

13 (i) SPECIAL RULE FOR FISCAL YEAR 2005.—

14 (1) IN GENERAL.—Obligation authority distrib-
15 uted under subsection (c)(4) for fiscal year 2005 for
16 sections 1301, 1302, and 1934 of this Act and sec-
17 tions 117 and 144(g) of title 23, United States
18 Code, may be used in fiscal year 2005 for purposes
19 of obligation authority distributed under subsection
20 (c)(6).

21 (2) RESTORATION.—Obligation authority used
22 as described in paragraph (1) shall be restored to
23 the original purpose on the date on which obligation
24 authority is distributed under this section for fiscal
25 year 2006.



1 (j) HIGH PRIORITY PROJECT FLEXIBILITY.—

2 (1) IN GENERAL.—Subject to paragraph (2),
3 obligation authority distributed for a fiscal year
4 under subsection (c)(4) for each project numbered 1
5 through 3676 listed in the table contained in section
6 1702 of this Act may be obligated for any other
7 project in such section in the same State.

8 (2) RESTORATION.—Obligation authority used
9 as described in paragraph (1) shall be restored to
10 the original purpose on the date on which obligation
11 authority is distributed under this section for the
12 next fiscal year following obligation under paragraph
13 (1).

14 (k) LIMITATION ON STATUTORY CONSTRUCTION.—
15 Nothing in this section shall be construed to limit the dis-
16 tribution of obligation authority under subsection
17 (c)(4)(A) for each of the individual projects numbered
18 greater than 3676 listed in the table contained in section
19 1702 of this Act.

20 **SEC. 1103. APPORTIONMENTS.**

21 (a) ADMINISTRATIVE EXPENSES.—

22 (1) IN GENERAL.—Section 104(a) of title 23,
23 United States Code, is amended to read as follows:

24 “(a) ADMINISTRATIVE EXPENSES.—



1 “(1) IN GENERAL.—There are authorized to be
2 appropriated from the Highway Trust Fund (other
3 than the Mass Transit Account) to be made avail-
4 able to the Secretary for administrative expenses of
5 the Federal Highway Administration—

6 “(A) \$353,024,000 for fiscal year 2005;

7 “(B) \$370,613,540 for fiscal year 2006;

8 “(C) \$389,079,500 for fiscal year 2007;

9 “(D) \$408,465,500 for fiscal year 2008;

10 and

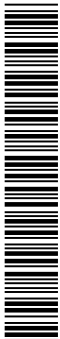
11 “(E) \$423,717,460 for fiscal year 2009.

12 “(2) PURPOSES.—The funds authorized by this
13 subsection shall be used—

14 “(A) to administer the provisions of law to
15 be financed from appropriations for the Fed-
16 eral-aid highway program and programs au-
17 thorized under chapter 2; and

18 “(B) to make transfers of such sums as
19 the Secretary determines to be appropriate to
20 the Appalachian Regional Commission for ad-
21 ministrative activities associated with the Appa-
22 lachian development highway system.

23 “(3) AVAILABILITY.—The funds made available
24 under paragraph (1) shall remain available until ex-
25 pended.”.



1 (2) CONFORMING AMENDMENTS.—Section 104
2 of such title is amended—

3 (A) in the matter preceding paragraph (1)
4 of subsection (b) by striking “the deduction au-
5 thorized by subsection (a) and the set-aside au-
6 thorized by subsection (f)” and inserting “the
7 set-asides authorized by subsections (d) and (f)
8 and section 130(e)”;

9 (B) in the first sentence of subsection
10 (e)(1) by striking “, and also” and all that fol-
11 lows through “this section”; and

12 (C) in subsection (i) by striking “de-
13 ducted” and inserting “made available”.

14 (b) ALASKA HIGHWAY.—Section 104(b)(1)(A) of
15 such title is amended by striking “\$18,800,000 for each
16 of fiscal years 1998 through 2002” and inserting
17 “\$30,000,000 for each of fiscal years 2005 through
18 2009”.

19 (c) NATIONAL HIGHWAY SYSTEM COMPONENT.—
20 Section 104(b)(1)(A) of such title is amended by striking
21 “\$36,400,000 for each fiscal year” and inserting
22 “\$40,000,000 for each of fiscal years 2005 and 2006 and
23 \$50,000,000 for each of fiscal years 2007 through 2009”.

24 (d) CMAQ APPORTIONMENT.—Section 104(b)(2) of
25 such title is amended—



1 (1) in subparagraph (B)—

2 (A) by striking clause (i) and inserting the
3 following:

4 “(i) 1.0 if, at the time of apportion-
5 ment, the area is a maintenance area;”;

6 (B) by striking “or” at the end of clause
7 (vi);

8 (C) by striking the period at the end of
9 clause (vii) and inserting “; or”; and

10 (D) by adding at the end the following:

11 “(viii) 1.0 if, at the time of apportion-
12 ment, an area is designated as nonattain-
13 ment for ozone under subpart 1 of part D
14 of title I of such Act (42 U.S.C. 7512 et
15 seq.).”; and

16 (2) by striking subparagraph (C) and inserting
17 the following:

18 “(C) ADDITIONAL ADJUSTMENT FOR CAR-
19 BON MONOXIDE AREAS.—If, in addition to
20 being designated as a nonattainment or mainte-
21 nance area for ozone as described in section
22 149(b), any county within the area was also
23 classified under subpart 3 of part D of title I
24 of the Clean Air Act (42 U.S.C. 7512 et seq.)
25 as a nonattainment or maintenance area de-



1 scribed in section 149(b) for carbon monoxide,
2 the weighted nonattainment or maintenance
3 area population of the county, as determined
4 under clauses (i) through (vi) or clause (viii) of
5 subparagraph (B), shall be further multiplied
6 by a factor of 1.2.”.

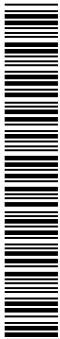
7 (e) REPORT.—Section 104(j) of such title is amended
8 by striking “submit to Congress a report” and inserting
9 “submit to Congress a report, and also make such report
10 available to the public in a user-friendly format via the
11 Internet,”.

12 (f) OPERATION LIFESAVER.—Section 104(d) of such
13 title is amended—

14 (1) by striking paragraph (1) and all that fol-
15 lows through the period at the end of paragraph
16 (2)(A) and inserting the following:

17 “(1) OPERATION LIFESAVER.—To carry out a
18 public information and education program to help
19 prevent and reduce motor vehicle accidents, injuries,
20 and fatalities and to improve driver performance at
21 railway-highway crossings—

22 “(A) before making an apportionment
23 under subsection (b)(3) for fiscal year 2005,
24 the Secretary shall set aside \$560,000 for such
25 fiscal year; and



1 “(B) there is authorized to be appropriated
2 from the Highway Trust Fund (other than the
3 Mass Transit Account) \$560,000 for each of
4 fiscal years 2006 through 2009.

5 “(2) RAILWAY-HIGHWAY CROSSING HAZARD
6 ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

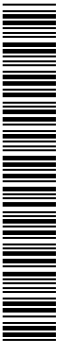
7 “(A) FUNDING.—To carry out the elimi-
8 nation of hazards at railway-highway
9 crossings—

10 “(i) before making an apportionment
11 under subsection (b)(3) for fiscal year
12 2005, the Secretary shall set aside
13 \$5,250,000 for such fiscal year; and

14 “(ii) there is authorized to be appro-
15 priated from the Highway Trust Fund
16 (other than the Mass Transit Account)
17 \$7,250,000 for fiscal year 2006,
18 \$10,000,000 for fiscal year 2007,
19 \$12,500,000 for fiscal year 2008, and
20 \$15,000,000 for fiscal year 2009.”; and

21 (2) in paragraph (2)(E)—

22 (A) by striking “Not less than \$250,000 of
23 such set-aside” and inserting “Of such set-
24 aside, not less than \$250,000 for fiscal year
25 2005, \$1,000,000 for fiscal year 2006,



1 \$1,750,000 for fiscal year 2007, \$2,250,000 for
2 fiscal year 2008, and \$3,000,000 for fiscal year
3 2009”; and

4 (B) by striking “per fiscal year”.

5 **SEC. 1104. EQUITY BONUS PROGRAM.**

6 (a) IN GENERAL.—Section 105 of title 23, United
7 States Code, is amended to read as follows:

8 **“§ 105. Equity bonus program**

9 “(a) PROGRAM.—

10 “(1) IN GENERAL.—Subject to subsections (c)
11 and (d), for each of fiscal years 2005 through 2009,
12 the Secretary shall allocate among the States
13 amounts sufficient to ensure that no State receives
14 a percentage of the total apportionments for the fis-
15 cal year for the programs specified in paragraph (2)
16 that is less than the percentage calculated under
17 subsection (b).

18 “(2) SPECIFIC PROGRAMS.—The programs re-
19 ferred to in subsection (a) are—

20 “(A) the Interstate maintenance program
21 under section 119;

22 “(B) the national highway system program
23 under section 103;

24 “(C) the highway bridge replacement and
25 rehabilitation program under section 144;



1 “(D) the surface transportation program
2 under section 133;

3 “(E) the highway safety improvement pro-
4 gram under section 148;

5 “(F) the congestion mitigation and air
6 quality improvement program under section
7 149;

8 “(G) metropolitan planning programs
9 under section 104(f);

10 “(H) the high priority projects program
11 under section 117;

12 “(I) the equity bonus program under this
13 section;

14 “(J) the Appalachian development highway
15 system program under subtitle IV of title 40;

16 “(K) the recreational trails program under
17 section 206;

18 “(L) the safe routes to school program
19 under section 1404 of the SAFETEA-LU;

20 “(M) the rail-highway grade crossing pro-
21 gram under section 130; and

22 “(N) the coordinated border infrastructure
23 program under section 1303 of the SAFETEA-
24 LU.

25 “(b) STATE PERCENTAGE.—



1 “(1) IN GENERAL.—The percentage referred to
2 in subsection (a) for each State shall be—

3 “(A) for each of fiscal years 2005 and
4 2006, 90.5 percent, for fiscal year 2007, 91.5
5 percent, and for each of fiscal years 2008 and
6 2009, 92 percent, of the quotient obtained by
7 dividing—

8 “(i) the estimated tax payments at-
9 tributable to highway users in the State
10 paid into the Highway Trust Fund (other
11 than the Mass Transit Account) in the
12 most recent fiscal year for which data are
13 available; by

14 “(ii) the estimated tax payments at-
15 tributable to highway users in all States
16 paid into the Highway Trust Fund (other
17 than the Mass Transit Account) for the
18 fiscal year; or

19 “(B) for a State with a total population
20 density of less than 40 persons per square mile
21 (as reported in the decennial census conducted
22 by the Federal Government in 2000) and of
23 which at least 1.25 percent of the total acreage
24 is under Federal jurisdiction, based on the re-
25 port of the General Services Administration en-



1 titled ‘Federal Real Property Profile’ and dated
2 September 30, 2004, a State with a total popu-
3 lation of less than 1,000,000 (as reported in
4 that decennial census), a State with a median
5 household income of less than \$35,000 (as re-
6 ported in that decennial census), a State with
7 a fatality rate during 2002 on Interstate high-
8 ways that is greater than 1 fatality for each
9 100,000,000 vehicle miles traveled on Interstate
10 highways, or a State with an indexed, State
11 motor fuels excise tax rate higher than 150 per-
12 cent of the Federal motor fuels excise tax rate
13 as of the date of enactment of the SAFETEA-
14 LU, the greater of—

15 “(i) the applicable percentage under
16 subparagraph (A); or

17 “(ii) the average percentage of the
18 State’s share of total apportionments for
19 the period of fiscal years 1998 through
20 2003 for the programs specified in para-
21 graph (2).

22 “(2) SPECIFIC PROGRAMS.—The programs re-
23 ferred to in paragraph (1)(B)(ii) are (as in effect on
24 the day before the date of enactment of the
25 SAFETEA-LU)—



1 “(A) the Interstate maintenance program
2 under section 119;

3 “(B) the national highway system program
4 under section 103;

5 “(C) the highway bridge replacement and
6 rehabilitation program under section 144;

7 “(D) the surface transportation program
8 under section 133;

9 “(E) the recreational trails program under
10 section 206;

11 “(F) the high priority projects program
12 under section 117;

13 “(G) the minimum guarantee provided
14 under this section;

15 “(H) revenue aligned budget authority
16 amounts provided under section 110;

17 “(I) the congestion mitigation and air
18 quality improvement program under section
19 149;

20 “(J) the Appalachian development highway
21 system program under subtitle IV of title 40;
22 and

23 “(K) metropolitan planning programs
24 under section 104(f).

25 “(c) SPECIAL RULES.—



1 “(1) MINIMUM COMBINED ALLOCATION.—For
2 each fiscal year, before making the allocations under
3 subsection (a)(1), the Secretary shall allocate among
4 the States amounts sufficient to ensure that no
5 State receives a combined total of amounts allocated
6 under subsection (a)(1), apportionments for the pro-
7 grams specified in subsection (a)(2), and amounts
8 allocated under this subsection, that is less than the
9 following percentages of the average for fiscal years
10 1998 through 2003 of the annual apportionments
11 for the State for all programs specified in subsection
12 (b)(2):

13 “(A) For fiscal year 2005, 117 percent.

14 “(B) For fiscal year 2006, 118 percent.

15 “(C) For fiscal year 2007, 119 percent.

16 “(D) For fiscal year 2008, 120 percent.

17 “(E) For fiscal year 2009, 121 percent.

18 “(2) NO NEGATIVE ADJUSTMENT.—No negative
19 adjustment shall be made under subsection (a)(1) to
20 the apportionment of any State.

21 “(d) TREATMENT OF FUNDS.—

22 “(1) PROGRAMMATIC DISTRIBUTION.—The Sec-
23 retary shall apportion the amounts made available
24 under this section that exceed \$2,639,000,000 so
25 that the amount apportioned to each State under



1 this paragraph for each program referred to in sub-
2 paragraphs (A) through (F) of subsection (a)(2) is
3 equal to the amount determined by multiplying the
4 amount to be apportioned under this paragraph by
5 the ratio that—

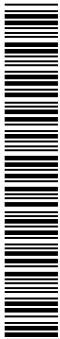
6 “(A) the amount of funds apportioned to
7 each State for each program referred to in sub-
8 paragraphs (A) through (F) of subsection
9 (a)(2) for a fiscal year; bears to

10 “(B) the total amount of funds appor-
11 tioned to such State for all such programs for
12 such fiscal year.

13 “(2) REMAINING DISTRIBUTION.—The Sec-
14 retary shall administer the remainder of funds made
15 available under this section to the States in accord-
16 ance with section 104(b)(3), except that paragraphs
17 (1) through (3) of section 133(d) shall not apply to
18 amounts administered pursuant to this paragraph.

19 “(e) METRO PLANNING SET ASIDE.—Notwith-
20 standing section 104(f), no set aside provided for under
21 that section shall apply to funds allocated under this sec-
22 tion.

23 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated from the Highway Trust
25 Fund (other than the Mass Transit Account) such sums



1 as are necessary to carry out this section for each of fiscal
2 years 2005 through 2009.”.

3 (b) CLERICAL AMENDMENT.—The analysis for sub-
4 chapter I of chapter 1 of such title is amended by striking
5 the item relating to section 105 and inserting the fol-
6 lowing:

“105. Equity bonus program.”.

7 **SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY.**

8 (a) ALLOCATION.—Section 110(a)(1) of title 23,
9 United States Code, is amended—

10 (1) by striking “2000” and inserting “2007”;

11 (2) by inserting after “such fiscal year” the
12 first place it appears: “and the succeeding fiscal
13 year”.

14 (b) REDUCTION.—Section 110(a)(2) of such title is
15 amended—

16 (1) by striking “2000” and inserting “2007”;

17 (2) by striking “October 1 of the succeeding”
18 and inserting “October 15 of such”;

19 (3) by inserting after “Account)” the following:
20 “for such fiscal year and the succeeding fiscal year”;

21 and

22 (4) by adding at the end the following: “No re-
23 duction under this paragraph and no reduction
24 under section 1102(h), and no reduction under title
25 VIII or any amendment made by title VIII, of the



1 SAFETEA-LU shall be made for a fiscal year if, as
2 of October 1 of such fiscal year the balance in the
3 Highway Trust Fund (other than the Mass Transit
4 Account) exceeds \$6,000,000,000.”.

5 (c) GENERAL DISTRIBUTION.—Section 110(b)(1)(A)
6 of such title is amended—

7 (1) by striking “minimum guarantee” and in-
8 serting “equity bonus”; and

9 (2) by striking “Transportation Equity Act for
10 the 21st Century” and inserting “SAFETEA-LU”.

11 (d) ADDITION OF HIGHWAY SAFETY IMPROVEMENT
12 PROGRAM.—Section 110(c) of such title is amended by in-
13 serting “the highway safety improvement program,” after
14 “the surface transportation program,”.

15 (e) TECHNICAL AMENDMENT.—Section 110(b)(1)(A)
16 of such title is amended by striking “for” the second place
17 it appears.

18 (f) SPECIAL RULE.—If the amount available pursu-
19 ant to section 110 of title 23, United States Code, for fis-
20 cal year 2007 is greater than zero, the Secretary shall—

21 (1) determine the total amount necessary to in-
22 crease each State’s rate of return (as determined
23 under section 105(b)(1)(A) of title 23, United States
24 Code) to 92 percent, excluding amounts provided
25 under this paragraph;



1 (2) allocate to each State the lesser of—

2 (A) the amount computed for that State
3 under paragraph (1); or

4 (B) an amount determined by multiplying
5 the total amount calculated under section 110
6 of title 23, United States Code, for fiscal year
7 2007 by the ratio that—

8 (i) the amount determined for such
9 State under paragraph (1); bears to

10 (ii) the total amount computed for all
11 States in paragraph (1); and

12 (3) allocate amounts remaining in excess of the
13 amounts allocated in paragraph (2) to all States in
14 accordance with section 110 of title 23, United
15 States Code.

16 **SEC. 1106. FUTURE INTERSTATE SYSTEM ROUTES.**

17 (a) EXTENSION OF DATE.—Section 103(c)(4)(B)(ii)
18 of title 23, United States Code, is amended by striking
19 “12” and inserting “25”.

20 (b) REMOVAL OF DESIGNATION.—Section
21 103(c)(4)(B)(iii) of such title is amended—

22 (1) in subclause (I) by striking “in the agree-
23 ment between the Secretary and the State or
24 States”; and

25 (2) by adding at the end the following:



1 “(III) EXISTING AGREEMENTS.—

2 An agreement described in clause (ii)
3 that is entered into before the date of
4 enactment of this subclause shall be
5 deemed to include the 25-year time
6 limitation described in that clause, re-
7 gardless of any earlier construction
8 completion date in the agreement.”.

9 **SEC. 1107. METROPOLITAN PLANNING.**

10 Section 104(f) of title 23, United States Code, is
11 amended—

12 (1) by striking paragraph (1) and inserting the
13 following:

14 “(1) SET-ASIDE.—On October 1 of each fiscal
15 year, the Secretary shall set aside 1.25 percent of
16 the funds authorized to be appropriated for the
17 Interstate maintenance, national highway system,
18 surface transportation, congestion mitigation and air
19 quality improvement, and highway bridge replace-
20 ment and rehabilitation programs authorized under
21 this title to carry out the requirements of section
22 134.”;

23 (2) in paragraph (2) by striking “per centum”
24 and inserting “percent”;

25 (3) in paragraph (3)—



1 (A) by striking “The funds” and inserting
2 the following:

3 “(A) IN GENERAL.—The funds”; and

4 (B) by striking “These funds” and all that
5 follows and inserting the following:

6 “(B) UNUSED FUNDS.—Any funds that
7 are not used to carry out section 134 may be
8 made available by a metropolitan planning or-
9 ganization to the State to fund activities under
10 section 135.”; and

11 (4) in paragraph (4)—

12 (A) by striking “The distribution” and in-
13 serting the following:

14 “(A) IN GENERAL.—The distribution”; and

15 (B) by adding at the end the following:

16 “(B) REIMBURSEMENT.—Not later than
17 30 days after the date of receipt by a State of
18 a request for reimbursement of expenditures
19 made by a metropolitan planning organization
20 for carrying out section 134, the State shall re-
21 imburse, from funds distributed under this
22 paragraph to the metropolitan planning organi-
23 zation by the State, the metropolitan planning
24 organization for those expenditures.”.



1 **SEC. 1108. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.**

2 Section 104(k) of title 23, United States Code, is
3 amended to read as follows:

4 “(k) TRANSFER OF HIGHWAY AND TRANSIT
5 FUNDS.—

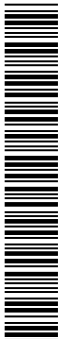
6 “(1) TRANSFER OF HIGHWAY FUNDS FOR
7 TRANSIT PROJECTS.—

8 “(A) IN GENERAL.—Subject to subpara-
9 graph (B), funds made available for transit
10 projects or transportation planning under this
11 title may be transferred to and administered by
12 the Secretary in accordance with chapter 53 of
13 title 49.

14 “(B) NON-FEDERAL SHARE.—The provi-
15 sions of this title relating to the non-Federal
16 share shall apply to the funds transferred under
17 subparagraph (A).

18 “(2) TRANSFER OF TRANSIT FUNDS FOR HIGH-
19 WAY PROJECTS.—

20 “(A) IN GENERAL.—Subject to subpara-
21 graph (B), funds made available for highway
22 projects or transportation planning under chap-
23 ter 53 of title 49 may be transferred to and ad-
24 ministered by the Secretary in accordance with
25 this title.



1 “(B) NON-FEDERAL SHARE.—The provi-
2 sions of chapter 53 of title 49 relating to the
3 non-Federal share shall apply to funds trans-
4 ferred under subparagraph (A).

5 “(3) TRANSFER OF FUNDS AMONG STATES OR
6 TO FEDERAL HIGHWAY ADMINISTRATION.—

7 “(A) IN GENERAL.—Subject to subpara-
8 graphs (B) and (C), the Secretary may, at the
9 request of a State, transfer funds apportioned
10 or allocated under this title to the State to an-
11 other State, or to the Federal Highway Admin-
12 istration, for the purpose of funding 1 or more
13 projects that are eligible for assistance with
14 funds so apportioned or allocated.

15 “(B) APPORTIONMENT.—The transfer
16 shall have no effect on any apportionment of
17 funds to a State under this section or section
18 105 or 144.

19 “(C) SURFACE TRANSPORTATION PRO-
20 GRAM.—Funds that are apportioned or allo-
21 cated to a State under subsection (b)(3) and at-
22 tributed to an urbanized area of a State with
23 a population of over 200,000 individuals under
24 section 133(d)(3) may be transferred under this
25 paragraph only if the metropolitan planning or-



1 ganization designated for the area concurs, in
2 writing, with the transfer request.

3 “(4) TRANSFER OF OBLIGATION AUTHORITY.—
4 Obligation authority for funds transferred under this
5 subsection shall be transferred in the same manner
6 and amount as the funds for the projects that are
7 transferred under this subsection.”.

8 **SEC. 1109. RECREATIONAL TRAILS.**

9 (a) RECREATIONAL TRAILS PROGRAM FORMULA.—
10 Section 104(h) of title 23, United States Code, is
11 amended—

12 (1) in paragraph (1) by striking the first sen-
13 tence and inserting the following: “Before appor-
14 tioning sums authorized to be appropriated to carry
15 out the recreational trails program under section
16 206, the Secretary shall deduct for administrative,
17 research, technical assistance, and training expenses
18 for such program \$840,000 for each of fiscal years
19 2005 through 2009.”; and

20 (2) in paragraph (2) by striking “After” and all
21 that follows through “remainder of the sums” and
22 inserting “The Secretary shall apportion the sums”.

23 (b) PERMISSIBLE USES.—Section 206(d)(2) of such
24 title is amended to read as follows:



1 “(2) PERMISSIBLE USES.—Permissible uses of
2 funds apportioned to a State for a fiscal year to
3 carry out this section include—

4 “(A) maintenance and restoration of exist-
5 ing recreational trails;

6 “(B) development and rehabilitation of
7 trailside and trailhead facilities and trail link-
8 ages for recreational trails;

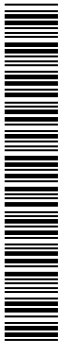
9 “(C) purchase and lease of recreational
10 trail construction and maintenance equipment;

11 “(D) construction of new recreational
12 trails, except that, in the case of new rec-
13 reational trails crossing Federal lands, con-
14 struction of the trails shall be—

15 “(i) permissible under other law;

16 “(ii) necessary and recommended by a
17 statewide comprehensive outdoor recreation
18 plan that is required by the Land and
19 Water Conservation Fund Act of 1965 (16
20 U.S.C. 460l–4 et seq.) and that is in ef-
21 fect;

22 “(iii) approved by the administering
23 agency of the State designated under sub-
24 section (c)(1); and

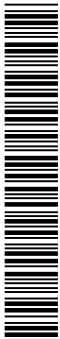


1 “(iv) approved by each Federal agency
2 having jurisdiction over the affected lands
3 under such terms and conditions as the
4 head of the Federal agency determines to
5 be appropriate, except that the approval
6 shall be contingent on compliance by the
7 Federal agency with all applicable laws, in-
8 cluding the National Environmental Policy
9 Act of 1969 (42 U.S.C. 4321 et seq.), the
10 Forest and Rangeland Renewable Re-
11 sources Planning Act of 1974 (16 U.S.C.
12 1600 et seq.), and the Federal Land Policy
13 and Management Act of 1976 (43 U.S.C.
14 1701 et seq.);

15 “(E) acquisition of easements and fee sim-
16 ple title to property for recreational trails or
17 recreational trail corridors;

18 “(F) assessment of trail conditions for ac-
19 cessibility and maintenance;

20 “(G) development and dissemination of
21 publications and operation of educational pro-
22 grams to promote safety and environmental
23 protection, (as those objectives relate to 1 or
24 more of the use of recreational trails, sup-
25 porting non-law enforcement trail safety and



1 trail use monitoring patrol programs, and pro-
2 viding trail-related training), but in an amount
3 not to exceed 5 percent of the apportionment
4 made to the State for the fiscal year; and

5 “(H) payment of costs to the State in-
6 curred in administering the program, but in an
7 amount not to exceed 7 percent of the appor-
8 tionment made to the State for the fiscal
9 year.”.

10 (c) USE OF APPORTIONMENTS.—Section 206(d)(3)
11 of such title is amended—

12 (1) by striking subparagraph (C);

13 (2) by redesignating subparagraph (D) as sub-
14 paragraph (C); and

15 (3) in subparagraph (C) (as so redesignated) by
16 striking “(2)(F)” and inserting “(2)(H)”.

17 (d) FEDERAL SHARE.—Section 206(f) of such title
18 is amended—

19 (1) in paragraph (1)—

20 (A) by inserting “and the Federal share of
21 the administrative costs of a State” after
22 “project”; and

23 (B) by striking “not exceed 80 percent”
24 and inserting “be determined in accordance
25 with section 120(b)”;



1 (2) in paragraph (2)(A) by striking “80 percent
2 of” and inserting “the amount determined in accord-
3 ance with section 120(b) for”;

4 (3) in paragraph (2)(B) by inserting “spon-
5 soring the project” after “Federal agency”;

6 (4) by striking paragraph (5);

7 (5) by redesignating paragraph (4) as para-
8 graph (5);

9 (6) in paragraph (5) (as so redesignated) by
10 striking “80 percent” and inserting “the Federal
11 share as determined in accordance with section
12 120(b)”;

13 (7) by inserting after paragraph (3) the fol-
14 lowing:

15 “(4) USE OF RECREATIONAL TRAILS PROGRAM
16 FUNDS TO MATCH OTHER FEDERAL PROGRAM
17 FUNDS.—Notwithstanding any other provision of
18 law, funds made available under this section may be
19 used toward the non-Federal matching share for
20 other Federal program funds that are—

21 “(A) expended in accordance with the re-
22 quirements of the Federal program relating to
23 activities funded and populations served; and

24 “(B) expended on a project that is eligible
25 for assistance under this section.”.



1 (e) PLANNING AND ENVIRONMENTAL ASSESSMENT
2 COSTS INCURRED PRIOR TO PROJECT APPROVAL.—Sec-
3 tion 206(h)(1) of such title is amended by adding at the
4 end the following:

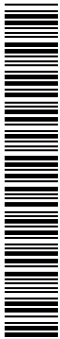
5 “(C) PLANNING AND ENVIRONMENTAL AS-
6 SESSMENT COSTS INCURRED PRIOR TO PROJECT
7 APPROVAL.—The Secretary may allow
8 preapproval planning and environmental compli-
9 ance costs to be credited toward the non-Fed-
10 eral share of the cost of a project described in
11 subsection (d)(2) (other than subparagraph
12 (H)) in accordance with subsection (f), limited
13 to costs incurred less than 18 months prior to
14 project approval.”.

15 (f) ENCOURAGEMENT OF USE OF YOUTH CONSERVA-
16 TION OR SERVICE CORPS.—The Secretary shall encourage
17 the States to enter into contracts and cooperative agree-
18 ments with qualified youth conservation or service corps
19 to perform construction and maintenance of recreational
20 trails under section 206 of title 23, United States Code.

21 **SEC. 1110. TEMPORARY TRAFFIC CONTROL DEVICES.**

22 (a) STANDARDS.—Section 109(e) of title 23, United
23 States Code, is amended—

24 (1) by striking “(e) No funds” and inserting
25 the following:



1 “(e) INSTALLATION OF SAFETY DEVICES.—

2 “(1) HIGHWAY AND RAILROAD GRADE CROSS-
3 INGS AND DRAWBRIDGES.—No funds”; and

4 (2) by adding at the end the following:

5 “(2) TEMPORARY TRAFFIC CONTROL DE-
6 VICES.—No funds shall be approved for expenditure
7 on any Federal-aid highway, or highway affected
8 under chapter 2, unless proper temporary traffic
9 control devices to improve safety in work zones will
10 be installed and maintained during construction,
11 utility, and maintenance operations on that portion
12 of the highway with respect to which such expendi-
13 tures are to be made. Installation and maintenance
14 of the devices shall be in accordance with the Man-
15 ual on Uniform Traffic Control Devices.”.

16 (b) LETTING OF CONTRACTS.—Section 112 of such
17 title is amended—

18 (1) by striking subsection (f);

19 (2) by redesignating subsection (g) as sub-
20 section (f); and

21 (3) by adding at the end the following:

22 “(g) TEMPORARY TRAFFIC CONTROL DEVICES.—

23 “(1) ISSUANCE OF REGULATIONS.—The Sec-
24 retary, after consultation with appropriate Federal
25 and State officials, shall issue regulations estab-



1 lishing the conditions for the appropriate use of, and
2 expenditure of funds for, uniformed law enforcement
3 officers, positive protective measures between work-
4 ers and motorized traffic, and installation and main-
5 tenance of temporary traffic control devices during
6 construction, utility, and maintenance operations.

7 “(2) EFFECTS OF REGULATIONS.—Based on
8 regulations issued under paragraph (1), a State
9 shall—

10 “(A) develop separate pay items for the
11 use of uniformed law enforcement officers, posi-
12 tive protective measures between workers and
13 motorized traffic, and installation and mainte-
14 nance of temporary traffic control devices dur-
15 ing construction, utility, and maintenance oper-
16 ations; and

17 “(B) incorporate such pay items into con-
18 tract provisions to be included in each contract
19 entered into by the State with respect to a
20 highway project to ensure compliance with sec-
21 tion 109(e)(2).

22 “(3) LIMITATION.—Nothing in the regulations
23 shall prohibit a State from implementing standards
24 that are more stringent than those required under
25 the regulations.



1 “(4) POSITIVE PROTECTIVE MEASURES DE-
2 FINED.—In this subsection, the term ‘positive pro-
3 tective measures’ means temporary traffic barriers,
4 crash cushions, and other strategies to avoid traffic
5 accidents in work zones, including full road clo-
6 sures.”.

7 (c) CLARIFICATION OF DATE.—Section 109(g) of
8 such title is amended in the first sentence by striking “The
9 Secretary” and all that follows through “of 1970” and in-
10 serting “Not later than January 30, 1971, the Secretary
11 shall issue”.

12 **SEC. 1111. SET-ASIDES FOR INTERSTATE DISCRETIONARY**
13 **PROJECTS.**

14 (a) IN GENERAL.—Section 118(c)(1) of title 23,
15 United States Code, is amended by striking
16 “\$50,000,000” and all that follows through “2003” and
17 inserting “\$100,000,000 for each of fiscal years 2005
18 through 2009”.

19 (b) TECHNICAL AMENDMENTS.—

20 (1) SECTION 116.—Section 116(b) of such title
21 is amended by striking “highway department” and
22 inserting “transportation department”.

23 (2) SECTION 120.—Section 120(e) of such title
24 is amended in the first sentence by striking “such
25 system” and inserting “such highway”.



1 (3) SECTION 127.—Section 127(a) of such title
2 is amended by striking “118(b)(1)” and inserting
3 “118(b)(2)”.

4 (4) BICYCLE AND PEDESTRIAN SAFETY
5 GRANTS.—Section 1212(i) of the Transportation Eq-
6 uity Act for the 21st Century (112 Stat. 196–197)
7 is amended by redesignating subparagraphs (D) and
8 (E) as paragraphs (2) and (3), respectively, and
9 moving such paragraphs 2 ems to the left.

10 **SEC. 1112. EMERGENCY RELIEF.**

11 There are authorized to be appropriated for each fis-
12 cal year such sums as may be necessary for allocations
13 by the Secretary described in subsections (a) and (b) of
14 section 125 of title 23, United States Code, if the total
15 of those allocations in such fiscal year are in excess of
16 \$100,000,000.

17 **SEC. 1113. SURFACE TRANSPORTATION PROGRAM.**

18 (a) PROGRAM ELIGIBILITY.—Section 133(b) of title
19 23, United States Code, is amended—

20 (1) in paragraph (6) by inserting “, including
21 advanced truck stop electrification systems” before
22 the period at the end; and

23 (2) by inserting after paragraph (11) the fol-
24 lowing:

25 “(12) Projects relating to intersections that—



1 “(A) have disproportionately high accident
2 rates;

3 “(B) have high levels of congestion, as evi-
4 denced by—

5 “(i) interrupted traffic flow at the
6 intersection; and

7 “(ii) a level of service rating that is
8 not better than ‘F’ during peak travel
9 hours, calculated in accordance with the
10 Highway Capacity Manual issued by the
11 Transportation Research Board; and

12 “(C) are located on a Federal-aid high-
13 way.”.

14 (b) REPEAL OF SAFETY PROGRAMS SET-ASIDE.—

15 (1) REPEAL.—Section 133(d)(1) of such title is
16 repealed.

17 (2) TECHNICAL AMENDMENTS.—Section 133(d)
18 of such title is amended—

19 (A) in the first sentence of paragraph

20 (3)(A)—

21 (i) by striking “subparagraphs (C)
22 and (D)” and inserting “subparagraph
23 (C)”; and

24 (ii) by striking “80 percent” and in-
25 serting “90 percent”;



1 (B) in paragraph (3)(B) by striking “tobe”
2 and inserting “to be”; and

3 (C) in paragraph (3)—

4 (i) by striking subparagraph (C);

5 (ii) by redesignating subparagraphs

6 (D) and (E) as subparagraphs (C) and

7 (D), respectively; and

8 (iii) in subparagraph (C) (as redesign-

9 nated by clause (ii)) by adding a period at

10 the end.

11 (3) EFFECTIVE DATE.—Paragraph (1) and

12 paragraph (2)(A)(ii) of this subsection shall take ef-

13 fect October 1, 2005.

14 (c) TRANSPORTATION ENHANCEMENT ACTIVITIES.—

15 Effective October 1, 2005, section 133(d)(2) of such title

16 is amended by striking “10 percent” and all that follows

17 through “section 104(b)(3) for a fiscal year” and inserting

18 the following: “In a fiscal year, the greater of 10 percent

19 of the funds apportioned to a State under section

20 104(b)(3) for such fiscal year, or the amount set aside

21 under this paragraph with respect to the State for fiscal

22 year 2005.”.

23 (d) OBLIGATION AUTHORITY.—Section 133(f)(1) of

24 such title is amended—



1 (1) by striking “1998 through 2000” and in-
2 serting “2004 through 2006”; and

3 (2) by striking “2001 through 2003” and in-
4 serting “2007 through 2009”.

5 (e) TECHNICAL CORRECTION.—Effective June 9,
6 1998, section 1108(e) of the Transportation Equity Act
7 for the 21st Century (112 Stat. 140) is amended by strik-
8 ing “Section 133” and inserting “Section 133(f)”.

9 **SEC. 1114. HIGHWAY BRIDGE PROGRAM.**

10 (a) FINDING AND DECLARATION.—Section 144(a) of
11 title 23, United States Code, is amended to read as fol-
12 lows:

13 “(a) FINDING AND DECLARATION.—Congress finds
14 and declares that it is in the vital interest of the United
15 States that a highway bridge program be carried out to
16 enable States to improve the condition of their highway
17 bridges over waterways, other topographical barriers,
18 other highways, and railroads through replacement and re-
19 habilitation of bridges that the States and the Secretary
20 determine are structurally deficient or functionally obso-
21 lete and through systematic preventive maintenance of
22 bridges.”.

23 (b) PARTICIPATION.—Section 144(d) of such title is
24 amended to read as follows:

25 “(d) PARTICIPATION.—



1 “(1) BRIDGE REPLACEMENT AND REHABILITA-
2 TION.—On application by a State or States to the
3 Secretary for assistance for a highway bridge that
4 has been determined to be eligible for replacement or
5 rehabilitation under subsection (b) or (c), the Sec-
6 retary may approve Federal participation in—

7 “(A) replacing the bridge with a com-
8 parable facility; or

9 “(B) rehabilitating the bridge.

10 “(2) TYPES OF ASSISTANCE.—On application
11 by a State or States to the Secretary, the Secretary
12 may approve Federal assistance for any of the fol-
13 lowing activities for a highway bridge that has been
14 determined to be eligible for replacement or rehabili-
15 tation under subsection (b) or (c):

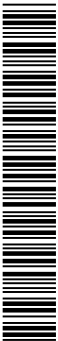
16 “(A) Painting.

17 “(B) Seismic retrofit.

18 “(C) Systematic preventive maintenance.

19 “(D) Installation of scour counter-
20 measures.

21 “(E) Application of calcium magnesium ac-
22 etate, sodium acetate/formate, or other environ-
23 mentally acceptable, minimally corrosive anti-
24 icing and de-icing compositions.



1 “(3) BASIS FOR DETERMINATION.—The Sec-
2 retary shall determine the eligibility of highway
3 bridges for replacement or rehabilitation for each
4 State based on structurally deficient and functionally
5 obsolete highway bridges in the State.

6 “(4) SPECIAL RULE FOR PREVENTIVE MAINTEN-
7 NANCE.—Notwithstanding any other provision of
8 this subsection, a State may carry out a project
9 under paragraph (2)(B), (2)(C), or (2)(D) for a
10 highway bridge without regard to whether the bridge
11 is eligible for replacement or rehabilitation under
12 this section.”.

13 (c) APPORTIONMENT OF FUNDS.—Section 144(e) of
14 such title is amended—

15 (1) in the third sentence by striking “square
16 footage” and inserting “deck area”;

17 (2) in the fourth sentence by striking “the total
18 cost of deficient bridges in a State and in all States
19 shall be reduced by the total cost of any highway
20 bridges constructed under subsection (m) in such
21 State, relating to replacement of destroyed bridges
22 and ferryboat services, and,”; and

23 (3) in the seventh sentence by striking “for the
24 same period as funds apportioned for projects on the
25 Federal-aid primary system under this title” and in-



1 serting “for the period specified in section
2 118(b)(2)”.

3 (d) OFF-SYSTEM BRIDGES.—Section 144(g)(3) of
4 such title is amended to read as follows:

5 “(3) OFF-SYSTEM BRIDGES.—

6 “(A) IN GENERAL.—Not less than 15 per-
7 cent of the amount apportioned to each State in
8 each of fiscal years 2005 through 2009 shall be
9 expended for projects to replace, rehabilitate,
10 paint, perform systematic preventive mainte-
11 nance or seismic retrofit of, or apply calcium
12 magnesium acetate, sodium acetate/formate, or
13 other environmentally acceptable, minimally
14 corrosive anti-icing and de-icing compositions
15 to, or install scour countermeasures to, highway
16 bridges located on public roads, other than
17 those on a Federal-aid highway, or to complete
18 the Warwick Intermodal Station (including the
19 construction of a people mover between the Sta-
20 tion and the T.F. Green Airport).

21 “(B) REDUCTION OF EXPENDITURES.—

22 The Secretary, after consultation with State
23 and local officials, may reduce the requirement
24 for expenditure for bridges not on a Federal-aid
25 highway under subparagraph (A) with respect



1 to the State if the Secretary determines that
2 the State has inadequate needs to justify the
3 expenditure.”.

4 (e) BRIDGE SET-ASIDE.—

5 (1) FISCAL YEAR 2005.—Section 144(g)(1)(C)
6 of such title is amended—

7 (A) in the subsection heading by striking
8 “2003” and inserting “2005”; and

9 (B) in the first sentence by striking
10 “2003” and inserting “2005”.

11 (2) FISCAL YEARS 2006 THROUGH 2009.—Effec-
12 tive October 1, 2005, section 144(g) of such title (as
13 amended by subsection (d) of this section) is
14 amended—

15 (A) by striking the subsection designation
16 and all that follows through the period at the
17 end of paragraph (2) and inserting the fol-
18 lowing:

19 “(g) BRIDGE SET-ASIDES.—

20 “(1) DESIGNATED PROJECTS.—

21 “(A) IN GENERAL.—Of the amounts au-
22 thorized to be appropriated to carry out the
23 bridge program under this section for each of
24 the fiscal years 2006 through 2009, all but
25 \$100,000,000 shall be apportioned as provided



1 in subsection (e). Such \$100,000,000 shall be
2 available as follows:

3 “(i) \$12,500,000 per fiscal year for
4 the Golden Gate Bridge.

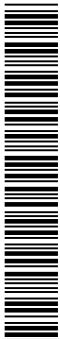
5 “(ii) \$18,750,000 per fiscal year for
6 the construction of a bridge joining the Is-
7 land of Gravina to the community of
8 Ketchikan in Alaska.

9 “(iii) \$12,500,000 per fiscal year to
10 the State of Nevada for construction of a
11 replacement of the federally owned bridge
12 over the Hoover Dam in the Lake Mead
13 National Recreation Area.

14 “(iv) \$12,500,000 per fiscal year to
15 the State of Missouri for construction of a
16 structure over the Mississippi River to con-
17 nect the city of St. Louis, Missouri, to the
18 State of Illinois.

19 “(v) \$12,500,000 per fiscal year for
20 replacement and reconstruction of State
21 maintained bridges in the State of Okla-
22 homa.

23 “(vi) \$4,500,000 per fiscal year for
24 replacement of the Missisquoi Bay Bridge,
25 Vermont.



1 “(vii) \$8,000,000 per fiscal year for
2 replacement and reconstruction of State-
3 maintained bridges in the State of Ver-
4 mont.

5 “(viii) \$8,750,000 per fiscal year for
6 design, planning, and right-of-way acquisi-
7 tion for the Interstate Route 74 bridge
8 from Bettendorf, Iowa, to Moline, Illinois.

9 “(ix) \$10,000,000 per fiscal year for
10 replacement and reconstruction of State-
11 maintained bridges in the State of Oregon.

12 “(B) GRAVINA ACCESS SCORING.—The
13 project described in subparagraph (A)(ii) shall
14 not be counted for purposes of the reduction set
15 forth in the fourth sentence of subsection (e).

16 “(C) PERIOD OF AVAILABILITY.—Amounts
17 made available to a State under this paragraph
18 shall remain available until expended.”;

19 (B) by striking paragraph (2); and

20 (C) by redesignating paragraph (3) as
21 paragraph (2).

22 (f) CONTINUATION OF REPORT; FEDERAL SHARE.—
23 Section 144 of such title is amended by adding at the end
24 the following:



1 “(r) ANNUAL MATERIALS REPORT ON NEW BRIDGE
2 CONSTRUCTION AND BRIDGE REHABILITATION.—Not
3 later than 1 year after the date of enactment of this sub-
4 section, and annually thereafter, the Secretary shall pub-
5 lish in the Federal Register a report describing construc-
6 tion materials used in new Federal-aid bridge construction
7 and bridge rehabilitation projects.

8 “(s) FEDERAL SHARE.—

9 “(1) IN GENERAL.—Except as provided under
10 paragraph (2), the Federal share of the cost of a
11 project payable from funds made available to carry
12 out this section shall be determined under section
13 120(b).

14 “(2) INTERSTATE SYSTEM.—The Federal share
15 of the cost of a project on the Interstate System
16 payable from funds made available to carry out this
17 section shall be determined under section 120(a).”.

18 (g) TECHNICAL AMENDMENT.—Section 144(i) of
19 such title is amended by striking “at the same time” and
20 all that follows through “Congress”.

21 **SEC. 1115. HIGHWAY USE TAX EVASION PROJECTS.**

22 (a) ELIGIBLE ACTIVITIES.—

23 (1) INTERGOVERNMENTAL ENFORCEMENT EF-
24 FORTS.—Section 143(b)(2) of title 23, United States
25 Code, is amended by inserting before the period the



1 following: “; except that of funds so made available
2 for each of fiscal years 2005 through 2009,
3 \$2,000,000 shall be available only to carry out inter-
4 governmental enforcement efforts, including research
5 and training”.

6 (2) CONDITIONS ON FUNDS ALLOCATED TO IN-
7 TERNAL REVENUE SERVICE.—Section 143(b)(3) of
8 such title is amended by striking “The” and insert-
9 ing “Except as otherwise provided in this section,
10 the”.

11 (3) LIMITATION ON USE OF FUNDS.—Section
12 143(b)(4) of such title is amended—

13 (A) by striking “and” at the end of sub-
14 paragraph (F);

15 (B) by striking the period at the end of
16 subparagraph (G) and inserting a semicolon;
17 and

18 (C) by adding at the end the following:

19 “(H) to support efforts between States and
20 Indian tribes to address issues relating to State
21 motor fuel taxes; and

22 “(I) to analyze and implement programs to
23 reduce tax evasion associated with foreign im-
24 ported fuel.”.



1 (4) REPORTS.—Section 143(b) of such title is
2 amended by adding at the end the following:

3 “(9) REPORTS.—The Commissioner of the In-
4 ternal Revenue Service and each State shall submit
5 to the Secretary an annual report that describes the
6 projects, examinations, and criminal investigations
7 funded by and carried out under this section. Such
8 report shall specify the estimated annual yield from
9 such projects, examinations, and criminal investiga-
10 tions.”.

11 (b) EXCISE FUEL REPORTING SYSTEM.—Section
12 143(c) of such title is amended to read as follows:

13 “(c) EXCISE TAX FUEL REPORTING.—

14 “(1) IN GENERAL.—Not later than 90 days
15 after the date of enactment of the SAFETEA-LU,
16 the Secretary shall enter into a memorandum of un-
17 derstanding with the Commissioner of the Internal
18 Revenue Service for the purposes of—

19 “(A) the additional development of capa-
20 bilities needed to support new reporting require-
21 ments and databases established under such
22 Act and the American Jobs Creation Act of
23 2004 (P.L. 108–357), and such other reporting
24 requirements and database development as may
25 be determined by the Secretary, in consultation



1 with the Commissioner of the Internal Revenue
2 Service, to be useful in the enforcement of fuel
3 excise taxes, including provisions recommended
4 by the Fuel Tax Enforcement Advisory Com-
5 mittee;

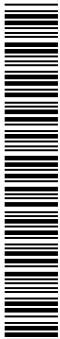
6 “(B) the completion of requirements need-
7 ed for the electronic reporting of fuel trans-
8 actions from carriers and terminal operators,

9 “(C) the operation and maintenance of an
10 excise summary terminal activity reporting sys-
11 tem and other systems used to provide strategic
12 analyses of domestic and foreign motor fuel dis-
13 tribution trends and patterns,

14 “(D) the collection, analysis, and sharing
15 of information on fuel distribution and compli-
16 ance or noncompliance with fuel taxes, and

17 “(E) the development, completion, oper-
18 ation, and maintenance of an electronic claims
19 filing system and database and an electronic
20 database of heavy vehicle highway use pay-
21 ments.

22 “(2) ELEMENTS OF MEMORANDUM OF UNDER-
23 STANDING.—The memorandum of understanding
24 shall provide that—



1 “(A) the Internal Revenue Service shall de-
2 velop and maintain any system under para-
3 graph (1) through contracts,

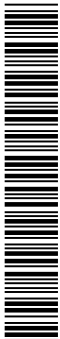
4 “(B) any system under paragraph (1) shall
5 be under the control of the Internal Revenue
6 Service, and

7 “(C) any system under paragraph (1) shall
8 be made available for use by appropriate State
9 and Federal revenue, tax, and law enforcement
10 authorities, subject to section 6103 of the Inter-
11 nal Revenue Code of 1986.

12 “(3) FUNDING.—Of the amounts made avail-
13 able to carry out this section for each of fiscal years
14 2005 through 2009, the Secretary shall make avail-
15 able to the Internal Revenue Service such funds as
16 may be necessary to complete, operate, and maintain
17 the systems under paragraph (1) in accordance with
18 this subsection.

19 “(4) REPORTS.—Not later than September 30
20 of each year, the Commissioner of the Internal Rev-
21 enue Service shall provide reports to the Secretary
22 on the status of the Internal Revenue Service
23 projects funded under this subsection.”.

24 “(c) ALLOCATIONS.—Of the amounts authorized to be
25 appropriated under section 1101(a)(21) of this Act for



1 highway use tax evasion projects for each of the fiscal
2 years 2005 through 2009, the following amounts shall be
3 allocated to the Internal Revenue Service to carry out sec-
4 tion 143 of title 23, United States Code:

5 (1) \$5,000,000 for fiscal year 2005.

6 (2) \$44,800,000 for fiscal year 2006.

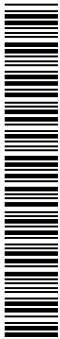
7 (3) \$53,300,000 for fiscal year 2007.

8 (4) \$12,000,000 for each of fiscal years 2008
9 and 2009.

10 **SEC. 1116. APPALACHIAN DEVELOPMENT HIGHWAY SYS-**
11 **TEM.**

12 (a) APPORTIONMENT.—The Secretary shall appor-
13 tion funds made available by section 1101(a)(7) of this
14 Act for fiscal years 2005 through 2009 among the States
15 based on the latest available cost to complete estimate for
16 the Appalachian development highway system under sec-
17 tion 14501 of title 40, United States Code.

18 (b) APPLICABILITY OF TITLE 23.—Funds made
19 available by section 1101(a)(7) of this Act for the Appa-
20 lachian development highway system shall be available for
21 obligation in the same manner as if such funds were ap-
22 portioned under chapter 1 of title 23, United States Code;
23 except that the Federal share of the cost of any project
24 under this section shall be determined in accordance with
25 section 14501 of title 40, United States Code, and such



1 funds shall be available to construct highways and access
2 roads under such section and shall remain available until
3 expended.

4 (c) USE OF TOLL CREDITS.—Section 120(j)(1) of
5 title 23, United States Code, is amended by inserting “and
6 the Appalachian development highway system program
7 under section 14501 of title 40” after “section 125”.

8 **SEC. 1117. TRANSPORTATION, COMMUNITY, AND SYSTEM**
9 **PRESERVATION PROGRAM.**

10 (a) ESTABLISHMENT.—In cooperation with appro-
11 priate State, tribal, regional, and local governments, the
12 Secretary shall establish a comprehensive program to ad-
13 dress the relationships among transportation, community,
14 and system preservation plans and practices and identify
15 private sector-based initiatives to improve such relation-
16 ships.

17 (b) PURPOSE.—Through the program under this sec-
18 tion, the Secretary shall facilitate the planning, develop-
19 ment, and implementation of strategies to integrate trans-
20 portation, community, and system preservation plans and
21 practices that address 1 or more of the following:

22 (1) Improve the efficiency of the transportation
23 system of the United States.

24 (2) Reduce the impacts of transportation on the
25 environment.



1 (3) Reduce the need for costly future invest-
2 ments in public infrastructure.

3 (4) Provide efficient access to jobs, services,
4 and centers of trade.

5 (5) Examine community development patterns
6 and identify strategies to encourage private sector
7 development that achieves the purposes identified in
8 paragraphs (1) through (4).

9 (c) GENERAL AUTHORITY.—The Secretary shall allo-
10 cate funds made available to carry out this section to
11 States, metropolitan planning organizations, local govern-
12 ments, and tribal governments to carry out eligible
13 projects to integrate transportation, community, and sys-
14 tem preservation plans and practices.

15 (d) ELIGIBILITY.—A project described in subsection
16 (c) is an eligible project under this section if the project—

17 (1) is eligible for assistance under title 23 or
18 chapter 53 of title 49, United States Code; or

19 (2) is to conduct any other activity relating to
20 transportation, community, and system preservation
21 that the Secretary determines to be appropriate, in-
22 cluding corridor preservation activities that are nec-
23 essary to implement 1 or more of the following:

24 (A) Transit-oriented development plans.

25 (B) Traffic calming measures.



1 (C) Other coordinated transportation, com-
2 munity, and system preservation practices.

3 (e) CRITERIA.—In allocating funds made available to
4 carry out this section, the Secretary shall give priority con-
5 sideration to applicants that—

6 (1) have instituted preservation or development
7 plans and programs that—

8 (A) are coordinated with State and local
9 preservation or development plans, including
10 transit-oriented development plans;

11 (B) promote cost-effective and strategic in-
12 vestments in transportation infrastructure that
13 minimize adverse impacts on the environment;
14 or

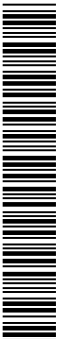
15 (C) promote innovative private sector
16 strategies;

17 (2) have instituted other policies to integrate
18 transportation, community, and system preservation
19 practices, such as—

20 (A) spending policies that direct funds to
21 high-growth areas;

22 (B) urban growth boundaries to guide met-
23 ropolitan expansion;

24 (C) “green corridors” programs that pro-
25 vide access to major highway corridors for areas



1 targeted for efficient and compact development;
2 or

3 (D) other similar programs or policies as
4 determined by the Secretary;

5 (3) have preservation or development policies
6 that include a mechanism for reducing potential im-
7 pacts of transportation activities on the environ-
8 ment;

9 (4) demonstrate a commitment to public and
10 private involvement, including the involvement of
11 nontraditional partners in the project team; and

12 (5) examine ways to encourage private sector
13 investments that address the purposes of this sec-
14 tion.

15 (f) **EQUITABLE DISTRIBUTION.**—In allocating funds
16 to carry out this section, the Secretary shall ensure the
17 equitable distribution of funds to a diversity of populations
18 and geographic regions.

19 (g) **FUNDING.**—

20 (1) **IN GENERAL.**—There is authorized to be
21 appropriated from the Highway Trust Fund (other
22 than the Mass Transit Account) to carry out this
23 section \$25,000,000 for fiscal year 2005 and
24 \$61,250,000 for each of fiscal years 2006, 2007,
25 2008, and 2009.



1 (2) CONTRACT AUTHORITY.—Funds made
2 available to carry out this section shall be available
3 for obligation in the same manner as if the funds
4 were apportioned under chapter 1 of title 23, United
5 States Code; except that such funds shall not be
6 transferable, and the Federal share for projects and
7 activities carried out with such funds shall be deter-
8 mined in accordance with section 120(b) of title 23,
9 United States Code.

10 (h) CONFORMING AMENDMENT.—Section 1221 of the
11 Transportation Equity Act for the 21st Century (23
12 U.S.C. 101 note; 112 Stat. 221) is repealed.

13 **SEC. 1118. TERRITORIAL HIGHWAY PROGRAM.**

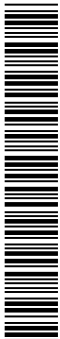
14 (a) IN GENERAL.—Chapter 2 of title 23, United
15 States Code, is amended by striking section 215 and in-
16 serting the following:

17 **“§ 215. Territorial highway program**

18 “(a) DEFINITIONS.—In this section, the following
19 definitions apply:

20 “(1) PROGRAM.—The term ‘program’ means
21 the territorial highway program established under
22 subsection (b).

23 “(2) TERRITORY.—The term ‘territory’ means
24 the any of the following territories of the United
25 States:



1 “(A) American Samoa.

2 “(B) The Commonwealth of the Northern
3 Mariana Islands.

4 “(C) Guam.

5 “(D) The United States Virgin Islands.

6 “(b) PROGRAM.—

7 “(1) IN GENERAL.—Recognizing the mutual
8 benefits that will accrue to the territories and the
9 United States from the improvement of highways in
10 the territories, the Secretary may carry out a pro-
11 gram to assist each government of a territory in the
12 construction and improvement of a system of arte-
13 rial and collector highways, and necessary inter-is-
14 land connectors, that is—

15 “(A) designated by the Governor or chief
16 executive officer of each territory; and

17 “(B) approved by the Secretary.

18 “(2) FEDERAL SHARE.—The Federal share of
19 Federal financial assistance provided to territories
20 under this section shall be in accordance with section
21 120(h).

22 “(c) TECHNICAL ASSISTANCE.—

23 “(1) IN GENERAL.—To continue a long-range
24 highway development program, the Secretary may
25 provide technical assistance to the governments of



1 the territories to enable the territories to, on a con-
2 tinuing basis—

3 “(A) engage in highway planning;

4 “(B) conduct environmental evaluations;

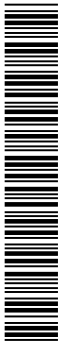
5 “(C) administer right-of-way acquisition
6 and relocation assistance programs; and

7 “(D) design, construct, operate, and main-
8 tain a system of arterial and collector highways,
9 including necessary inter-island connectors.

10 “(2) FORM AND TERMS OF ASSISTANCE.—Tech-
11 nical assistance provided under paragraph (1), and
12 the terms for the sharing of information among ter-
13 ritories receiving the technical assistance, shall be
14 included in the agreement required by subsection
15 (e).

16 “(d) NONAPPLICABILITY OF CERTAIN PROVISIONS.—

17 “(1) IN GENERAL.—Except to the extent that
18 provisions of chapter 1 are determined by the Sec-
19 retary to be inconsistent with the needs of the terri-
20 tories and the intent of the program, chapter 1
21 (other than provisions of chapter 1 relating to the
22 apportionment and allocation of funds) shall apply
23 to funds authorized to be appropriated for the pro-
24 gram.



1 “(2) APPLICABLE PROVISIONS.—The agreement
2 required by subsection (e) for each territory shall
3 identify the sections of chapter 1 that are applicable
4 to that territory and the extent of the applicability
5 of those sections.

6 “(e) AGREEMENT.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graph (4), none of the funds made available for the
9 program shall be available for obligation or expendi-
10 ture with respect to any territory until the chief ex-
11 ecutive officer of the territory enters into an agree-
12 ment with the Secretary (not later than 1 year after
13 the date of enactment of SAFETEA-LU), providing
14 that the government of the territory shall—

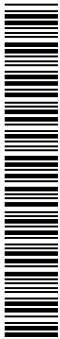
15 “(A) implement the program in accordance
16 with applicable provisions of chapter 1 and sub-
17 section (d);

18 “(B) design and construct a system of ar-
19 terial and collector highways, including nec-
20 essary inter-island connectors, in accordance
21 with standards that are—

22 “(i) appropriate for each territory;

23 and

24 “(ii) approved by the Secretary;



1 “(C) provide for the maintenance of facili-
2 ties constructed or operated under this section
3 in a condition to adequately serve the needs of
4 present and future traffic; and

5 “(D) implement standards for traffic oper-
6 ations and uniform traffic control devices that
7 are approved by the Secretary.

8 “(2) TECHNICAL ASSISTANCE.—The agreement
9 required by paragraph (1) shall—

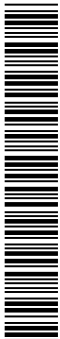
10 “(A) specify the kind of technical assist-
11 ance to be provided under the program;

12 “(B) include appropriate provisions regard-
13 ing information sharing among the territories;
14 and

15 “(C) delineate the oversight role and re-
16 sponsibilities of the territories and the Sec-
17 retary.

18 “(3) REVIEW AND REVISION OF AGREEMENT.—
19 The agreement entered into under paragraph (1)
20 shall be reevaluated and, as necessary, revised, at
21 least every 2 years.

22 “(4) EXISTING AGREEMENTS.—With respect to
23 an agreement under the section between the Sec-
24 retary and the chief executive officer of a territory



1 that is in effect as of the date of enactment of the
2 SAFETEA-LU—

3 “(A) the agreement shall continue in force
4 until replaced by an agreement entered into in
5 accordance with paragraph (1); and

6 “(B) amounts made available for the pro-
7 gram under the existing agreement shall be
8 available for obligation or expenditure so long
9 as the agreement, or the existing agreement en-
10 tered into under paragraph (1), is in effect.

11 “(f) PERMISSIBLE USES OF FUNDS.—

12 “(1) IN GENERAL.—Funds made available for
13 the program may be used only for the following
14 projects and activities carried out in a territory:

15 “(A) Eligible surface transportation pro-
16 gram projects described in section 133(b).

17 “(B) Cost-effective, preventive mainte-
18 nance consistent with section 116(d).

19 “(C) Ferry boats, terminal facilities, and
20 approaches, in accordance with subsections (b)
21 and (c) of section 129.

22 “(D) Engineering and economic surveys
23 and investigations for the planning, and the fi-
24 nancing, of future highway programs.



1 “(E) Studies of the economy, safety, and
2 convenience of highway use.

3 “(F) The regulation and equitable taxation
4 of highway use.

5 “(G) Such research and development as
6 are necessary in connection with the planning,
7 design, and maintenance of the highway system.

8 “(2) PROHIBITION ON USE OF FUNDS FOR ROU-
9 TINE MAINTENANCE.—None of the funds made
10 available for the program shall be obligated or ex-
11 pended for routine maintenance.

12 “(g) LOCATION OF PROJECTS.—Territorial highway
13 projects (other than those described in paragraphs (1),
14 (3), and (4) of section 133(b)) may not be undertaken on
15 roads functionally classified as local.”.

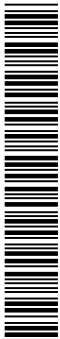
16 (b) CONFORMING AMENDMENTS.—

17 (1) ELIGIBLE PROJECTS.—Section 103(b) of
18 such title is amended—

19 (A) in the heading for paragraph (6) by
20 striking “ELIGIBLE” and inserting “STATE ELI-
21 GIBLE”;

22 (B) in paragraph (6) by striking subpara-
23 graph (P) ; and

24 (C) by adding at the end the following:



1 “(7) TERRITORY ELIGIBLE PROJECTS.—Subject
2 to approval by the Secretary, funds set aside for this
3 program under section 104(b)(1) for the National
4 Highway System may be obligated for projects eligi-
5 ble for assistance under the territorial highway pro-
6 gram under section 215.”.

7 (2) FUNDING.—Section 104(b)(1)(A) of such
8 title is amended by striking “to the Virgin Islands,
9 Guam, American Samoa, and the Commonwealth of
10 Northern Mariana Islands” and inserting “for the
11 territorial highway program under section 215”.

12 (3) CLERICAL AMENDMENT.—The analysis for
13 chapter 2 of such title is amended by striking the
14 item relating to section 215 and inserting the fol-
15 lowing:

“215. Territorial highway program.”.

16 **SEC. 1119. FEDERAL LANDS HIGHWAYS.**

17 (a) FEDERAL SHARE PAYABLE.—

18 (1) IN GENERAL.—Section 120(k) of title 23,
19 United States Code, is amended—

20 (A) by striking “Federal-aid highway”;

21 and

22 (B) by striking “section 104” and insert-
23 ing “this title or chapter 53 of title 49”.



1 (2) TECHNICAL REFERENCES.—Section 120(l)
2 of such title is amended by striking “section 104”
3 and inserting “this title or chapter 53 of title 49”.

4 (b) PAYMENTS TO FEDERAL AGENCIES FOR FED-
5 ERAL-AID PROJECTS.—Section 132 of such title is
6 amended—

7 (1) by striking the first 2 sentences and insert-
8 ing the following:

9 “(a) IN GENERAL.—In a case in which a proposed
10 Federal-aid project is to be undertaken by a Federal agen-
11 cy in accordance with an agreement between a State and
12 the Federal agency, the State may—

13 “(1) direct the Secretary to transfer the funds
14 for the Federal share of the project directly to the
15 Federal agency; or

16 “(2) make such deposit with, or payment to,
17 the Federal agency as is required to meet the obliga-
18 tion of the State under the agreement for the work
19 undertaken or to be undertaken by the Federal
20 agency.

21 “(b) REIMBURSEMENT.—On execution with a State
22 of a project agreement described in subsection (a), the
23 Secretary may reimburse the State, using any available
24 funds, for the estimated Federal share under this title of



1 the obligation of the State deposited or paid under sub-
2 section (a)(2).”; and

3 (2) in the last sentence by striking “Any sums”
4 and inserting the following:

5 “(c) RECOVERY AND CREDITING OF FUNDS.—Any
6 sums”.

7 (c) ALLOCATIONS.—Section 202 of such title is
8 amended—

9 (1) in subsection (a) by striking “(a) On Octo-
10 ber 1” and all that follows through “Such alloca-
11 tion” and inserting the following:

12 “(a) ALLOCATION BASED ON NEED.—

13 “(1) IN GENERAL.—On October 1 of each fiscal
14 year, the Secretary shall allocate sums authorized to
15 be appropriated for the fiscal year for forest develop-
16 ment roads and trails according to the relative needs
17 of the various national forests and grasslands.

18 “(2) PLANNING.—The allocation under para-
19 graph (1)”;

20 (2) in subsection (d)(2)—

21 (A) by adding at the end the following:

22 “(E) TRANSFERRED FUNDS.—

23 “(i) IN GENERAL.—Not later than 30
24 days after the date on which funds are
25 made available to the Secretary of the In-



1 terior under this paragraph, the funds
2 shall be distributed to, and available for
3 immediate use by, the eligible Indian
4 tribes, in accordance with the formula for
5 distribution of funds under the Indian res-
6 ervation roads program.

7 “(ii) USE OF FUNDS.—Notwith-
8 standing any other provision of this sec-
9 tion, funds available to Indian tribes for
10 Indian reservation roads shall be expended
11 on projects identified in a transportation
12 improvement program approved by the
13 Secretary.”; and

14 (B) in subsection (d)(3)(A) by striking
15 “under this title” and inserting “under this
16 chapter and section 125(e)”.

17 (d) FEDERAL LANDS HIGHWAYS PROGRAM.—Section
18 202 of such title is amended by striking subsection (b)
19 and inserting the following:

20 “(b) ALLOCATION FOR PUBLIC LANDS HIGHWAYS.—

21 “(1) PUBLIC LANDS HIGHWAYS.—

22 “(A) IN GENERAL.—On October 1 of each
23 fiscal year, the Secretary shall allocate 34 per-
24 cent of the sums authorized to be appropriated
25 for that fiscal year for public lands highways



1 among those States having unappropriated or
2 unreserved public lands, nontaxable Indian
3 lands, or other Federal reservations, on the
4 basis of need in the States, respectively, as de-
5 termined by the Secretary, on application of the
6 State transportation departments of the respec-
7 tive States.

8 “(B) PREFERENCE.—In making the allo-
9 cation under subparagraph (A), the Secretary
10 shall give preference to those projects that are
11 significantly impacted by Federal land and re-
12 source management activities that are proposed
13 by a State that contains at least 3 percent of
14 the total public land in the United States.

15 “(2) FOREST HIGHWAYS.—

16 “(A) IN GENERAL.—On October 1 of each
17 fiscal year, the Secretary shall allocate 66 per-
18 cent of the funds authorized to be appropriated
19 for public lands highways for forest highways in
20 accordance with section 134 of the Federal-Aid
21 Highway Act of 1987 (23 U.S.C. 202 note; 101
22 Stat. 173).

23 “(B) PUBLIC ACCESS TO AND WITHIN NA-
24 TIONAL FOREST SYSTEM.—In making the allo-
25 cation under subparagraph (A), the Secretary



1 shall give equal consideration to projects that
2 provide access to and within the National For-
3 est System, as identified by the Secretary of
4 Agriculture through—

5 “(i) renewable resource and land use
6 planning; and

7 “(ii) assessments of the impact of that
8 planning on transportation facilities.”.

9 (e) BIA ADMINISTRATIVE EXPENSES.—Section
10 202(d)(2) of such title (as amended by subsection (c)(2)
11 of this section) is amended by adding at the end the fol-
12 lowing:

13 “(F) ADMINISTRATIVE EXPENSES.—

14 “(i) IN GENERAL.—Of the funds au-
15 thorized to be appropriated for Indian res-
16 ervation roads, \$20,000,000 for fiscal year
17 2006, \$22,000,000 for fiscal year 2007,
18 \$24,500,000 for fiscal year 2008, and
19 \$27,000,000 for fiscal year 2009 may be
20 used by the Secretary of the Interior for
21 program management and oversight and
22 project-related administrative expenses.

23 “(ii) HEALTH AND SAFETY ASSUR-
24 ANCES.—Notwithstanding any other provi-
25 sion of law, an Indian tribal government



1 may approve plans, specifications, and esti-
2 mates and commence road and bridge con-
3 struction with funds made available for In-
4 dian reservation roads under the Transpor-
5 tation Equity Act for the 21st Century
6 (Public Law 105–178) and SAFETEA-
7 LU through a contract or agreement under
8 the Indian Self-Determination and Edu-
9 cation Assistance Act (25 U.S.C. 450b et
10 seq.) if the Indian tribal government—

11 “(I) provides assurances in the
12 contract or agreement that the con-
13 struction will meet or exceed applica-
14 ble health and safety standards;

15 “(II) obtains the advance review
16 of the plans and specifications from a
17 State-licensed civil engineer that has
18 certified that the plans and specifica-
19 tions meet or exceed the applicable
20 health and safety standards; and

21 “(III) provides a copy of the cer-
22 tification under subclause (I) to the
23 Deputy Assistant Secretary for Tribal
24 Government Affairs or the Assistant



1 Secretary for Indian Affairs, as ap-
2 propriate.”.

3 (f) NATIONAL TRIBAL TRANSPORTATION FACILITY
4 INVENTORY.—Section 202(d)(2) of such title (as amended
5 by subsection (e)) is amended by adding at the end the
6 following:

7 “(G) NATIONAL TRIBAL TRANSPORTATION
8 FACILITY INVENTORY.—

9 “(i) IN GENERAL.—Not later than 2
10 years after the date of enactment of the
11 SAFETEA-LU, the Secretary, in coopera-
12 tion with the Secretary of the Interior,
13 shall complete a comprehensive national in-
14 ventory of transportation facilities that are
15 eligible for assistance under the Indian res-
16 ervation roads program.

17 “(ii) TRANSPORTATION FACILITIES
18 INCLUDED IN THE INVENTORY.—For pur-
19 poses of identifying the tribal transpor-
20 tation system and determining the relative
21 transportation needs among Indian tribes,
22 the Secretary shall include, at a minimum,
23 transportation facilities that are eligible for
24 assistance under the Indian reservation



1 roads program that a tribe has requested,
2 including facilities that—

3 “(I) were included in the Bureau
4 of Indian Affairs system inventory for
5 funding formula purposes in 1992 or
6 any subsequent fiscal year;

7 “(II) were constructed or recon-
8 structed with funds from the Highway
9 Trust Funds (other than the Mass
10 Transit Account) under the Indian
11 reservation roads program since 1983;

12 “(III) are owned by an Indian
13 tribal government; or

14 “(IV) are community streets or
15 bridges within the exterior boundary
16 of Indian reservations, Alaska Native
17 villages, and other recognized Indian
18 communities (including communities
19 in former Indian reservations in Okla-
20 homa) in which the majority of resi-
21 dents are American Indians or Alaska
22 Natives; or

23 “(V) are primary access routes
24 proposed by tribal governments, in-
25 cluding roads between villages, roads



1 to landfills, roads to drinking water
2 sources, roads to natural resources
3 identified for economic development,
4 and roads that provide access to inter-
5 modal termini, such as airports, har-
6 bors, or boat landings.

7 “(iii) LIMITATION ON PRIMARY AC-
8 CESS ROUTES.—For purposes of this sub-
9 paragraph, a proposed primary access
10 route is the shortest practicable route con-
11 necting 2 points of the proposed route.

12 “(iv) ADDITIONAL FACILITIES.—
13 Nothing in this subparagraph shall pre-
14 clude the Secretary from including addi-
15 tional transportation facilities that are eli-
16 gible for funding under the Indian reserva-
17 tion roads program in the inventory used
18 for the national funding allocation if such
19 additional facilities are included in the in-
20 ventory in a uniform and consistent man-
21 ner nationally.

22 “(v) REPORT TO CONGRESS.—Not
23 later than 90 days after the date of com-
24 pletion of the inventory under this sub-
25 paragraph, the Secretary shall prepare and



1 submit a report to Congress that includes
2 the data gathered and the results of the in-
3 ventory.”.

4 (g) INDIAN RESERVATION ROAD BRIDGES.—Section
5 202(d)(4) of such title is amended—

6 (1) in subparagraph (B)—

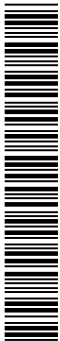
7 (A) by striking “(B) RESERVATION.—Of
8 the amounts” and all that follows through “to
9 replace,” and inserting the following:

10 “(B) FUNDING.—

11 “(i) AUTHORIZATION OF APPROPRIA-
12 TIONS.—In addition to any other funds
13 made available for Indian reservation roads
14 for each fiscal year, there is authorized to
15 be appropriated from the Highway Trust
16 Fund (other than the Mass Transit Ac-
17 count) \$14,000,000 for each of fiscal years
18 2005 through 2009 to carry out planning,
19 design, engineering, preconstruction, con-
20 struction, and inspection of projects to re-
21 place,”; and

22 (B) by adding at the end the following:

23 “(ii) AVAILABILITY.—Funds made
24 available to carry out this subparagraph
25 shall be available for obligation in the same



1 manner as if such funds were apportioned
2 under chapter 1.”;

3 (2) in subparagraph (C) by striking clause (iii)
4 and inserting the following:

5 “(iii) be structurally deficient or func-
6 tionally obsolete; and”; and

7 (3) by striking subparagraph (D) and inserting
8 the following:

9 “(D) APPROVAL REQUIREMENT.—

10 “(i) IN GENERAL.—Subject to clause
11 (ii), on request by an Indian tribe or the
12 Secretary of the Interior, the Secretary
13 may make funds available under this sub-
14 section for preliminary engineering for In-
15 dian reservation road bridge projects.

16 “(ii) CONSTRUCTION AND CONSTRU-
17 CTION ENGINEERING.—The Secretary may
18 make funds available under clause (i) for
19 construction and construction engineering
20 after approval of applicable plans, speci-
21 fications, and estimates in accordance with
22 this title.”.

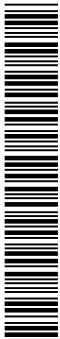
23 (4) CONTRACTS AND AGREEMENTS WITH IN-
24 DIAN TRIBES.—Section 202(d) of such title is
25 amended by adding at the end the following:



1 “(5) CONTRACTS AND AGREEMENTS WITH IN-
2 DIAN TRIBES.—

3 “(A) IN GENERAL.—Notwithstanding any
4 other provision of law or any interagency agree-
5 ment, program guideline, manual, or policy di-
6 rective, all funds made available to an Indian
7 tribal government under this chapter for a
8 highway, road, bridge, parkway, or transit facil-
9 ity program or project that is located on an In-
10 dian reservation or provides access to the res-
11 ervation or a community of the Indian tribe
12 shall be made available, on the request of the
13 Indian tribal government, to the Indian tribal
14 government for use in carrying out, in accord-
15 ance with the Indian Self-Determination and
16 Education Assistance Act (25 U.S.C. 450 et
17 seq.), contracts and agreements for the plan-
18 ning, research, design, engineering, construc-
19 tion, and maintenance relating to the program
20 or project.

21 “(B) EXCLUSION OF AGENCY PARTICIPA-
22 TION.—In accordance with subparagraph (A),
23 all funds for a program or project to which sub-
24 paragraph (A) applies shall be paid to the In-
25 dian tribal government without regard to the

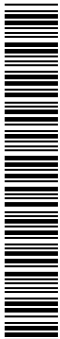


1 organizational level at which the Department of
2 the Interior has previously carried out, or the
3 Department of Transportation has previously
4 carried out under the Federal lands highway
5 programs, the programs, functions, services, or
6 activities involved.

7 “(C) CONSORTIA.—Two or more Indian
8 tribes that are otherwise eligible to participate
9 in a program or project to which this chapter
10 applies may form a consortium to be considered
11 as a single Indian tribe for the purpose of par-
12 ticipating in the project under this section.

13 “(D) SECRETARY AS SIGNATORY.—Not-
14 withstanding any other provision of law, the
15 Secretary is authorized to enter into a funding
16 agreement with an Indian tribal government to
17 carry out a highway, road, bridge, parkway, or
18 transit program or project under subparagraph
19 (A) that is located on an Indian reservation or
20 provides access to the reservation or a commu-
21 nity of the Indian tribe.

22 “(E) FUNDING.—The amount an Indian
23 tribal government receives for a program or
24 project under subparagraph (A) shall equal the
25 sum of the funding that the Indian tribal gov-



ernment would otherwise receive for the program or project in accordance with the funding formula established under this subsection and such additional amounts as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the program or project.

“(F) ELIGIBILITY.—

“(i) IN GENERAL.—Subject to clause (ii), funds may be made available under subparagraph (A) to an Indian tribal government for a program or project in a fiscal year only if the Indian tribal government requesting such funds demonstrates to the satisfaction of the Secretary financial stability and financial management capability during the 3 fiscal years immediately preceding the fiscal year for which the request is being made.

“(ii) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPABILITY.—An Indian tribal government that had no uncorrected significant and material audit exceptions in



1 the required annual audit of the Indian
2 tribal government self-determination con-
3 tracts or self-governance funding agree-
4 ments with any Federal agency during the
5 3-fiscal year period referred in clause (i)
6 shall be conclusive evidence of the financial
7 stability and financial management capa-
8 bility for purposes of clause (i).

9 “(G) ASSUMPTION OF FUNCTIONS AND DU-
10 TIES.—An Indian tribal government receiving
11 funding under subparagraph (A) for a program
12 or project shall assume all functions and duties
13 that the Secretary of the Interior would have
14 performed with respect to a program or project
15 under this chapter, other than those functions
16 and duties that inherently cannot be legally
17 transferred under the Indian Self-Determina-
18 tion and Education Assistance Act (25 U.S.C.
19 450b et seq.).

20 “(H) POWERS.—An Indian tribal govern-
21 ment receiving funding under subparagraph (A)
22 for a program or project shall have all powers
23 that the Secretary of the Interior would have
24 exercised in administering the funds transferred
25 to the Indian tribal government for such pro-



1 gram or project under this section if the funds
2 had not been transferred, except to the extent
3 that such powers are powers that inherently
4 cannot be legally transferred under the Indian
5 Self-Determination and Education Assistance
6 Act (25 U.S.C. 450b et seq.).

7 “(I) DISPUTE RESOLUTION.—In the event
8 of a disagreement between the Secretary or the
9 Secretary of the Interior and an Indian tribe
10 over whether a particular function, duty, or
11 power may be lawfully transferred under the In-
12 dian Self-Determination and Education Assist-
13 ance Act (25 U.S.C. 450b et seq.), the Indian
14 tribe shall have the right to pursue all alter-
15 native dispute resolutions and appeal proce-
16 dures authorized by such Act, including regula-
17 tions issued to carry out such Act.

18 “(J) TERMINATION OF CONTRACT OR
19 AGREEMENT.—On the date of the termination
20 of a contract or agreement under this section
21 by an Indian tribal government, the Secretary
22 shall transfer all funds that would have been al-
23 located to the Indian tribal government under
24 the contract or agreement to the Secretary of



1 the Interior to provide continued transportation
2 services in accordance with applicable law.”.

3 (h) PLANNING AND AGENCY COORDINATION.—Sec-
4 tion 204 of such title is amended—

5 (1) in subsection (a)(1) by inserting “refuge
6 roads,” after “parkways,”; and

7 (2) by striking subsection (b) and inserting the
8 following:

9 “(b) USE OF FUNDS.—

10 “(1) IN GENERAL.—Funds made available for
11 public lands highways, park roads and parkways,
12 and Indian reservation roads shall be used by the
13 Secretary and the Secretary of the appropriate Fed-
14 eral land management agency to pay the cost of—

15 “(A) transportation planning, research,
16 and engineering and construction of, highways,
17 roads, parkways, and transit facilities located
18 on public lands, national parks, and Indian res-
19 ervations; and

20 “(B) operation and maintenance of transit
21 facilities located on public lands, national parks,
22 and Indian reservations.

23 “(2) CONTRACT.—In connection with an activ-
24 ity described in paragraph (1), the Secretary and the
25 Secretary of the appropriate Federal land manage-



1 ment agency may enter into a contract or other ap-
2 propriate agreement with respect to such activity
3 with—

4 “(A) a State (including a political subdivi-
5 sion of a State); or

6 “(B) an Indian tribe.

7 “(3) INDIAN RESERVATION ROADS.—In the case
8 of an Indian reservation road—

9 “(A) Indian labor may be employed, in ac-
10 cordance with such rules and regulations as
11 may be promulgated by the Secretary of the In-
12 terior, to carry out any construction or other
13 activity described in paragraph (1); and

14 “(B) funds made available to carry out
15 this section may be used to pay bridge
16 preconstruction costs (including planning, de-
17 sign, and engineering).

18 “(4) FEDERAL EMPLOYMENT.—No maximum
19 limitation on Federal employment shall be applicable
20 to construction or improvement of Indian reservation
21 roads.

22 “(5) AVAILABILITY OF FUNDS.—Funds made
23 available under this section for each class of Federal
24 lands highways shall be available for any transpor-
25 tation project eligible for assistance under this title



1 that is within or adjacent to, or that provides access
2 to, the areas served by the particular class of Fed-
3 eral lands highways.

4 “(6) RESERVATION OF FUNDS.—The Secretary
5 of the Interior may reserve funds from administra-
6 tive funds of the Bureau of Indian Affairs that are
7 associated with the Indian reservation roads pro-
8 gram to finance Indian technical centers under sec-
9 tion 504(b).”.

10 (i) MAINTENANCE OF INDIAN RESERVATION
11 ROADS.—Section 204(c) of such title is amended by strik-
12 ing the second and third sentences and inserting the fol-
13 lowing: “Notwithstanding any other provision of this title,
14 of the amount of funds allocated for Indian reservation
15 roads from the Highway Trust Fund, not more than 25
16 percent of the funds allocated to an Indian tribe may be
17 expended for the purpose of maintenance, excluding road
18 sealing which shall not be subject to any limitation. The
19 Bureau of Indian Affairs shall continue to retain primary
20 responsibility, including annual funding request responsi-
21 bility, for road maintenance programs on Indian reserva-
22 tions. The Secretary shall ensure that funding made avail-
23 able under this subsection for maintenance of Indian res-
24 ervation roads for each fiscal year is supplementary to and
25 not in lieu of any obligation of funds by the Bureau of



1 Indian Affairs for road maintenance programs on Indian
2 reservations.”.

3 (j) REFUGE ROADS.—Section 204(k)(1) of such title
4 is amended—

5 (1) in subparagraph (B)—

6 (A) by striking “(2), (5),” and inserting
7 “(2), (3), (5),”; and

8 (B) by striking “and” after the semicolon;

9 (2) in subparagraph (C) by striking the period
10 at the end and inserting a semicolon; and

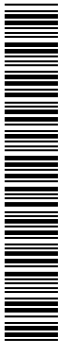
11 (3) by adding at the end the following:

12 “(D) the non-Federal share of the cost of
13 any project funded under this title or chapter
14 53 of title 49 that provides access to or within
15 a wildlife refuge; and

16 “(E) maintenance and improvement of rec-
17 reational trails; except that expenditures on
18 trails under this subparagraph shall not exceed
19 5 percent of available funds for each fiscal
20 year.”.

21 (k) TRIBAL-STATE ROAD MAINTENANCE AGREE-
22 MENTS.—Section 204 of such title is amended by adding
23 at the end the following:

24 “(l) TRIBAL-STATE ROAD MAINTENANCE AGREE-
25 MENTS.—



1 “(1) IN GENERAL.—An Indian tribe and a
2 State may enter into a road maintenance agreement
3 under which an Indian tribe assumes the responsibil-
4 ities of the State for—

5 “(A) Indian reservation roads; and

6 “(B) roads providing access to Indian res-
7 ervation roads.

8 “(2) TRIBAL-STATE AGREEMENTS.—Agree-
9 ments entered into under paragraph (1)—

10 “(A) shall be negotiated between the State
11 and the Indian tribe; and

12 “(B) shall not require the approval of the
13 Secretary.

14 “(3) ANNUAL REPORT.—Effective beginning
15 with fiscal year 2005, the Secretary shall prepare
16 and submit to Congress an annual report that
17 identifies—

18 “(A) the Indian tribes and States that
19 have entered into agreements under paragraph
20 (1);

21 “(B) the number of miles of roads for
22 which Indian tribes have assumed maintenance
23 responsibilities; and



1 “(C) the amount of funding transferred to
2 Indian tribes for the fiscal year under agree-
3 ments entered into under paragraph (1).”.

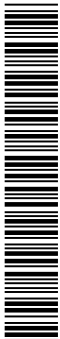
4 (l) DEPUTY ASSISTANT SECRETARY OF TRANSPOR-
5 TATION FOR TRIBAL GOVERNMENT AFFAIRS.—Section
6 102 of title 49, United States Code, is amended—

7 (1) by redesignating subsections (f) and (g) as
8 subsections (g) and (h), respectively; and

9 (2) by inserting after subsection (e) the fol-
10 lowing:

11 “(f) DEPUTY ASSISTANT SECRETARY FOR TRIBAL
12 GOVERNMENT AFFAIRS.—

13 “(1) ESTABLISHMENT.—In accordance with
14 Federal policies promoting Indian self determina-
15 tion, the Department of Transportation shall have,
16 within the office of the Secretary, a Deputy Assist-
17 ant Secretary for Tribal Government Affairs ap-
18 pointed by the President to plan, coordinate, and im-
19 plement the Department of Transportation policy
20 and programs serving Indian tribes and tribal orga-
21 nizations and to coordinate tribal transportation pro-
22 grams and activities in all offices and administra-
23 tions of the Department and to be a participant in
24 any negotiated rulemaking relating to, or having an



1 impact on, projects, programs, or funding associated
2 with the tribal transportation program.

3 “(2) RESERVATION OF TRUST OBLIGATIONS.—

4 “(A) RESPONSIBILITY OF SECRETARY.—In
5 carrying out this title, the Secretary shall be re-
6 sponsible to exercise the trust obligations of the
7 United States to Indians and Indian tribes to
8 ensure that the rights of a tribe or individual
9 Indian are protected.

10 “(B) PRESERVATION OF UNITED STATES
11 RESPONSIBILITY.—Nothing in this title shall
12 absolve the United States from any responsi-
13 bility to Indians and Indian tribes, including re-
14 sponsibilities derived from the trust relationship
15 and any treaty, executive order, or agreement
16 between the United States and an Indian
17 tribe.”.

18 (m) FOREST HIGHWAYS.—Of the amounts made
19 available for public lands highways under section 1101—

20 (1) not to exceed \$20,000,000 per fiscal year
21 may be used for the maintenance of forest highways;

22 (2) not to exceed \$1,000,000 per fiscal year
23 may be used for signage identifying public hunting
24 and fishing access; and



1 (3) not to exceed \$10,000,000 per fiscal year
2 shall be used by the Secretary of Agriculture to pay
3 the costs of facilitating the passage of aquatic spe-
4 cies beneath roads in the National Forest System,
5 including the costs of constructing, maintaining, re-
6 placing, or removing culverts and bridges, as appro-
7 priate.

8 (n) WILDLIFE VEHICLE COLLISION REDUCTION
9 STUDY.—

10 (1) IN GENERAL.—The Secretary shall conduct
11 a study of methods to reduce collisions between
12 motor vehicles and wildlife (in this subsection re-
13 ferred to as “wildlife vehicle collisions”).

14 (2) CONTENTS.—

15 (A) AREAS OF STUDY.—The study shall in-
16 clude an assessment of the causes and impacts
17 of wildlife vehicle collisions and solutions and
18 best practices for reducing such collisions.

19 (B) METHODS FOR CONDUCTING THE
20 STUDY.—In carrying out the study, the Sec-
21 retary shall—

22 (i) conduct a thorough literature re-
23 view; and

24 (ii) survey current practices of the
25 Department of Transportation.



1 (3) CONSULTATION.—In carrying out the study,
2 the Secretary shall consult with appropriate experts
3 in the field of wildlife vehicle collisions.

4 (4) REPORT.—

5 (A) IN GENERAL.—Not later than 2 years
6 after the date of enactment of this Act, the Sec-
7 retary shall submit to Congress a report on the
8 results of the study.

9 (B) CONTENTS.—The report shall include
10 a description of each of the following:

11 (i) Causes of wildlife vehicle collisions.

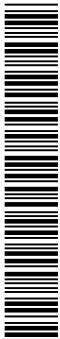
12 (ii) Impacts of wildlife vehicle colli-
13 sions.

14 (iii) Solutions to and prevention of
15 wildlife vehicle collisions.

16 (5) MANUAL.—

17 (A) DEVELOPMENT.—Based upon the re-
18 sults of the study, the Secretary shall develop a
19 best practices manual to support State efforts
20 to reduce wildlife vehicle collisions.

21 (B) AVAILABILITY.—The manual shall be
22 made available to States not later than 1 year
23 after the date of transmission of the report
24 under paragraph (4).



1 (C) CONTENTS.—The manual shall in-
2 clude, at a minimum, the following:

3 (i) A list of best practices addressing
4 wildlife vehicle collisions.

5 (ii) A list of information, technical,
6 and funding resources for addressing wild-
7 life vehicle collisions.

8 (iii) Recommendations for addressing
9 wildlife vehicle collisions.

10 (iv) Guidance for developing a State
11 action plan to address wildlife vehicle colli-
12 sions.

13 (6) TRAINING.—Based upon the manual devel-
14 oped under paragraph (5), the Secretary shall de-
15 velop a training course on addressing wildlife vehicle
16 collisions for transportation professionals.

17 (o) LIMITATION ON APPLICABILITY.—The require-
18 ments of the January 4, 2005, Federal Highway Adminis-
19 tration, a final rule on the implementation of the Uniform
20 Relocation Assistance and Real Property Acquisition pol-
21 icy Act of 1970 (42 U.S.C. 4601 et seq.) shall not apply
22 to the voluntary conservation easement activities of the
23 Department of Agriculture or the Department of the Inte-
24 rior.



1 **SEC. 1120. PUERTO RICO HIGHWAY PROGRAM.**

2 (a) IN GENERAL.—Subchapter I of chapter 1 of title
3 23, United States Code, is amended by adding at the end
4 the following:

5 **“§ 165. Puerto Rico highway program**

6 “(a) IN GENERAL.—The Secretary shall allocate
7 funds made available to carry out this section for each
8 of fiscal years 2005 through 2009 to the Commonwealth
9 of Puerto Rico to carry out a highway program in the
10 Commonwealth.

11 “(b) APPLICABILITY OF TITLE.—Amounts made
12 available by section 1101(a)(14) of the SAFETEA-LU
13 shall be available for obligation in the same manner as
14 if such funds were apportioned under this chapter.

15 “(c) TREATMENT OF FUNDS.—Amounts made avail-
16 able to carry out this section for a fiscal year shall be ad-
17 ministered as follows:

18 “(1) APPORTIONMENT.—For the purpose of im-
19 posing any penalty under this title or title 49, the
20 amounts shall be treated as being apportioned to
21 Puerto Rico under sections 104(b) and 144, for each
22 program funded under those sections in an amount
23 determined by multiplying—

24 “(A) the aggregate of the amounts for the
25 fiscal year; by

26 “(B) the ratio that—



1 “(i) the amount of funds apportioned
2 to Puerto Rico for each such program for
3 fiscal year 1997; bears to

4 “(ii) the total amount of funds appor-
5 tioned to Puerto Rico for all such pro-
6 grams for fiscal year 1997.

7 “(2) PENALTY.—The amounts treated as being
8 apportioned to Puerto Rico under each section re-
9 ferred to in paragraph (1) shall be deemed to be re-
10 quired to be apportioned to Puerto Rico under that
11 section for purposes of the imposition of any penalty
12 under this title or title 49.

13 “(d) EFFECT ON ALLOCATIONS AND APPORTION-
14 MENTS.—Subject to subsection (c)(2), nothing in this sec-
15 tion affects any allocation under section 105 and any ap-
16 portionment under sections 104 and 144.”.

17 (b) CONFORMING AMENDMENT.—The analysis for
18 subchapter I of chapter 1 of such title is amended by add-
19 ing at the end the following:

“165. Puerto Rico highway program.”.

20 (c) DEFINITION OF STATE.—For the purposes of ap-
21 portioning funds under sections 104, 105, 130, 144, and
22 206 of title 23, United States Code, and section 1404,
23 relating to the safe routes to school program, the term
24 “State” means any of the 50 States and the District of
25 Columbia.



1 **SEC. 1121. HOV FACILITIES.**

2 (a) IN GENERAL.—Subchapter I of chapter 1 of title
3 23, United States Code (as amended by section 1120 of
4 this Act), is amended by adding at the end the following:

5 **“§ 166. HOV facilities**

6 “(a) IN GENERAL.—

7 “(1) AUTHORITY OF STATE AGENCIES.—A
8 State agency that has jurisdiction over the operation
9 of a HOV facility shall establish the occupancy re-
10 quirements of vehicles operating on the facility.

11 “(2) OCCUPANCY REQUIREMENT.—Except as
12 otherwise provided by this section, no fewer than 2
13 occupants per vehicle may be required for use of a
14 HOV facility.

15 “(b) EXCEPTIONS.—

16 “(1) IN GENERAL.—Notwithstanding the occu-
17 pancy requirement of subsection (a)(2), the excep-
18 tions in paragraphs (2) through (5) shall apply with
19 respect to a State agency operating a HOV facility.

20 “(2) MOTORCYCLES AND BICYCLES.—

21 “(A) IN GENERAL.—Subject to subpara-
22 graph (B), the State agency shall allow motor-
23 cycles and bicycles to use the HOV facility.

24 “(B) SAFETY EXCEPTION.—

25 “(i) IN GENERAL.—A State agency
26 may restrict use of the HOV facility by



1 motorcycles or bicycles (or both) if the
2 agency certifies to the Secretary that such
3 use would create a safety hazard and the
4 Secretary accepts the certification.

5 “(ii) ACCEPTANCE OF CERTIFI-
6 CATION.—The Secretary may accept a cer-
7 tification under this subparagraph only
8 after the Secretary publishes notice of the
9 certification in the Federal Register and
10 provides an opportunity for public com-
11 ment.

12 “(3) PUBLIC TRANSPORTATION VEHICLES.—
13 The State agency may allow public transportation
14 vehicles to use the HOV facility if the agency—

15 “(A) establishes requirements for clearly
16 identifying the vehicles; and

17 “(B) establishes procedures for enforcing
18 the restrictions on the use of the facility by the
19 vehicles.

20 “(4) HIGH OCCUPANCY TOLL VEHICLES.—The
21 State agency may allow vehicles not otherwise ex-
22 empt pursuant to this subsection to use the HOV fa-
23 cility if the operators of the vehicles pay a toll
24 charged by the agency for use of the facility and the
25 agency—



1 “(A) establishes a program that addresses
2 how motorists can enroll and participate in the
3 toll program;

4 “(B) develops, manages, and maintains a
5 system that will automatically collect the toll;
6 and

7 “(C) establishes policies and procedures
8 to—

9 “(i) manage the demand to use the fa-
10 cility by varying the toll amount that is
11 charged; and

12 “(ii) enforce violations of use of the
13 facility.

14 “(5) LOW EMISSION AND ENERGY-EFFICIENT
15 VEHICLES.—

16 “(A) INHERENTLY LOW EMISSION VEHI-
17 CLE.—Before September 30, 2009, the State
18 agency may allow vehicles that are certified as
19 inherently low-emission vehicles pursuant to
20 section 88.311–93 of title 40, Code of Federal
21 Regulations (or successor regulations), and are
22 labeled in accordance with section 88.312–93 of
23 such title (or successor regulations), to use the
24 HOV facility if the agency establishes proce-



1 dures for enforcing the restrictions on the use
2 of the facility by the vehicles.

3 “(B) OTHER LOW EMISSION AND ENERGY-
4 EFFICIENT VEHICLES.—Before September 30,
5 2009, the State agency may allow vehicles cer-
6 tified as low emission and energy-efficient vehi-
7 cles under subsection (e), and labeled in accord-
8 ance with subsection (e), to use the HOV facil-
9 ity if the operators of the vehicles pay a toll
10 charged by the agency for use of the facility
11 and the agency—

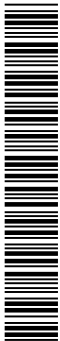
12 “(i) establishes a program that ad-
13 dresses the selection of vehicles under this
14 paragraph; and

15 “(ii) establishes procedures for enforc-
16 ing the restrictions on the use of the facil-
17 ity by the vehicles.

18 “(C) AMOUNT OF TOLLS.—Under subpara-
19 graph (B), a State agency may charge no toll
20 or may charge a toll that is less than tolls
21 charged under paragraph (3).

22 “(c) REQUIREMENTS APPLICABLE TO TOLLS.—

23 “(1) IN GENERAL.—Tolls may be charged
24 under paragraphs (3) and (4) of subsection (b) not-
25 withstanding section 301 and, except as provided in



1 paragraphs (2) and (3), subject to the requirements
2 of section 129.

3 “(2) HOV FACILITIES ON THE INTERSTATE
4 SYSTEM.—Notwithstanding section 129, tolls may be
5 charged under paragraphs (3) and (4) of subsection
6 (b) on a HOV facility on the Interstate System.

7 “(3) EXCESS TOLL REVENUES.—If a State
8 agency makes a certification under section 129(a)(3)
9 with respect to toll revenues collected under para-
10 graphs (3) and (4) of subsection (b), the State, in
11 the use of toll revenues under that sentence, shall
12 give priority consideration to projects for developing
13 alternatives to single occupancy vehicle travel and
14 projects for improving highway safety.

15 “(d) HOV FACILITY MANAGEMENT, OPERATION,
16 MONITORING, AND ENFORCEMENT.—

17 “(1) IN GENERAL.—A State agency that allows
18 vehicles to use a HOV facility under paragraph (3)
19 or (4) of subsection (b) in a fiscal year shall certify
20 to the Secretary that the agency will carry out the
21 following responsibilities with respect to the facility
22 in the fiscal year:

23 “(A) Establishing, managing, and sup-
24 porting a performance monitoring, evaluation,
25 and reporting program for the facility that pro-



1 vides for continuous monitoring, assessment,
2 and reporting on the impacts that the vehicles
3 may have on the operation of the facility and
4 adjacent highways.

5 “(B) Establishing, managing, and sup-
6 porting an enforcement program that ensures
7 that the facility is being operated in accordance
8 with the requirements of this section.

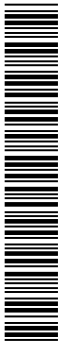
9 “(C) Limiting or discontinuing the use of
10 the facility by the vehicles if the presence of the
11 vehicles has degraded the operation of the facil-
12 ity.

13 “(2) DEGRADED FACILITY.—

14 “(A) DEFINITION OF MINIMUM AVERAGE
15 OPERATING SPEED.—In this paragraph, the
16 term ‘minimum average operating speed’
17 means—

18 “(i) 45 miles per hour, in the case of
19 a HOV facility with a speed limit of 50
20 miles per hour or greater; and

21 “(ii) not more than 10 miles per hour
22 below the speed limit, in the case of a
23 HOV facility with a speed limit of less
24 than 50 miles per hour.

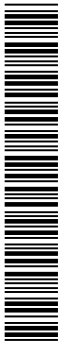


1 “(B) STANDARD FOR DETERMINING DE-
2 GRADED FACILITY.—For purposes of paragraph
3 (1), the operation of a HOV facility shall be
4 considered to be degraded if vehicles operating
5 on the facility are failing to maintain a min-
6 imum average operating speed 90 percent of the
7 time over a consecutive 180-day period during
8 morning or evening weekday peak hour periods
9 (or both).

10 “(C) MANAGEMENT OF LOW EMISSION AND
11 ENERGY-EFFICIENT VEHICLES.—In managing
12 the use of HOV lanes by low emission and en-
13 ergy-efficient vehicles that do not meet applica-
14 ble occupancy requirements, a State agency
15 may increase the percentages described in sub-
16 section (f)(3)(B)(i).

17 “(e) CERTIFICATION OF LOW EMISSION AND EN-
18 ERGY-EFFICIENT VEHICLES.—Not later than 180 days
19 after the date of enactment of this section, the Adminis-
20 trator of the Environmental Protection Agency shall—

21 “(1) issue a final rule establishing requirements
22 for certification of vehicles as low emission and en-
23 ergy-efficient vehicles for purposes of this section
24 and requirements for the labeling of the vehicles;
25 and



1 “(2) establish guidelines and procedures for
2 making the vehicle comparisons and performance
3 calculations described in subsection (f)(3)(B), in ac-
4 cordance with section 32908(b) of title 49.

5 “(f) DEFINITIONS.—In this section, the following
6 definitions apply:

7 “(1) ALTERNATIVE FUEL VEHICLE.—The term
8 ‘alternative fuel vehicle’ means a vehicle that is oper-
9 ating on—

10 “(A) methanol, denatured ethanol, or other
11 alcohols;

12 “(B) a mixture containing at least 85 per-
13 cent of methanol, denatured ethanol, and other
14 alcohols by volume with gasoline or other fuels;

15 “(C) natural gas;

16 “(D) liquefied petroleum gas;

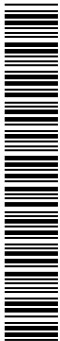
17 “(E) hydrogen;

18 “(F) coal derived liquid fuels;

19 “(G) fuels (except alcohol) derived from bi-
20 ological materials;

21 “(H) electricity (including electricity from
22 solar energy); or

23 “(I) any other fuel that the Secretary pre-
24 scribes by regulation that is not substantially
25 petroleum and that would yield substantial en-



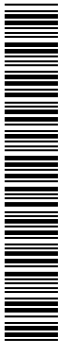
1 ergy security and environmental benefits, in-
2 cluding fuels regulated under section 490 of
3 title 10, Code of Federal Regulations (or suc-
4 cessor regulations).

5 “(2) HOV FACILITY.—The term ‘HOV facility’
6 means a high occupancy vehicle facility.

7 “(3) LOW EMISSION AND ENERGY-EFFICIENT
8 VEHICLE.—The term ‘low emission and energy-effi-
9 cient vehicle’ means a vehicle that—

10 “(A) has been certified by the Adminis-
11 trator as meeting the Tier II emission level es-
12 tablished in regulations prescribed by the Ad-
13 ministrator under section 202(i) of the Clean
14 Air Act (42 U.S.C. 7521(i)) for that make and
15 model year vehicle; and

16 “(B)(i) is certified by the Administrator of
17 the Environmental Protection Agency, in con-
18 sultation with the manufacturer, to have
19 achieved not less than a 50-percent increase in
20 city fuel economy or not less than a 25-percent
21 increase in combined city-highway fuel economy
22 (or such greater percentage of city or city-high-
23 way fuel economy as may be determined by a
24 State under subsection (d)(2)(C)) relative to a
25 comparable vehicle that is an internal combus-



1 tion gasoline fueled vehicle (other than a vehicle
2 that has propulsion energy from onboard hybrid
3 sources); or

4 “(ii) is an alternative fuel vehicle.

5 “(4) PUBLIC TRANSPORTATION VEHICLE.—The
6 term ‘public transportation vehicle’ means a vehicle
7 that—

8 “(A) provides designated public transpor-
9 tation (as defined in section 221 of the Ameri-
10 cans with Disabilities Act of 1990 (42 U.S.C.
11 12141) or provides public school transportation
12 (to and from public or private primary, sec-
13 ondary, or tertiary schools); and

14 “(B)(i) is owned or operated by a public
15 entity;

16 “(ii) is operated under a contract with a
17 public entity; or

18 “(iii) is operated pursuant to a license by
19 the Secretary or a State agency to provide
20 motorbus or school vehicle transportation serv-
21 ices to the public.

22 “(5) STATE AGENCY.—

23 “(A) IN GENERAL.—The term ‘State agen-
24 cy’, as used with respect to a HOV facility,
25 means an agency of a State or local government



1 having jurisdiction over the operation of the fa-
2 cility.

3 “(B) INCLUSION.—The term ‘State agen-
4 cy’ includes a State transportation depart-
5 ment.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) PROGRAM EFFICIENCIES.—Section 102 of
8 title 23, United States Code, is amended—

9 (A) by striking subsection (a); and

10 (B) by redesignating subsections (b) and
11 (c) as subsections (a) and (b), respectively.

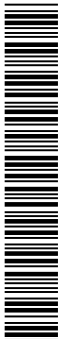
12 (2) CHAPTER ANALYSIS.—The analysis for such
13 subchapter (as amended by section 1120 of this Act)
14 is amended by adding at the end the following:

“166. HOV facilities.”.

15 (c) SENSE OF CONGRESS.—It is the sense of Con-
16 gress that the Secretary and the States should provide ad-
17 ditional incentives (including the use of high occupancy
18 vehicle lanes on State and Interstate highways) for the
19 purchase and use of hybrid and other fuel efficient vehi-
20 cles, which have been proven to minimize air emissions
21 and decrease consumption of fossil fuels.

22 **SEC. 1122. DEFINITIONS.**

23 (a) TRANSPORTATION ENHANCEMENT ACTIVITY.—
24 Section 101(a)(35) of title 23, United States Code, is
25 amended to read as follows:



1 “(35) TRANSPORTATION ENHANCEMENT ACTIV-
2 ITY.—The term ‘transportation enhancement activ-
3 ity’ means, with respect to any project or the area
4 to be served by the project, any of the following ac-
5 tivities as the activities relate to surface transpor-
6 tation:

7 “(A) Provision of facilities for pedestrians
8 and bicycles.

9 “(B) Provision of safety and educational
10 activities for pedestrians and bicyclists.

11 “(C) Acquisition of scenic easements and
12 scenic or historic sites (including historic battle-
13 fields).

14 “(D) Scenic or historic highway programs
15 (including the provision of tourist and welcome
16 center facilities).

17 “(E) Landscaping and other scenic beau-
18 tification.

19 “(F) Historic preservation.

20 “(G) Rehabilitation and operation of his-
21 toric transportation buildings, structures, or fa-
22 cilities (including historic railroad facilities and
23 canals).



1 “(H) Preservation of abandoned railway
2 corridors (including the conversion and use of
3 the corridors for pedestrian or bicycle trails).

4 “(I) Inventory, control, and removal of
5 outdoor advertising.

6 “(J) Archaeological planning and research.

7 “(K) Environmental mitigation—

8 “(i) to address water pollution due to
9 highway runoff; or

10 “(ii) reduce vehicle-caused wildlife
11 mortality while maintaining habitat
12 connectivity.

13 “(L) Establishment of transportation mu-
14 seums.”.

15 (b) ADVANCED TRUCK STOP ELECTRIFICATION SYS-
16 TEM.—Such section 101(a) is amended by adding at the
17 end the following:

18 “(38) ADVANCED TRUCK STOP ELECTRIFICA-
19 TION SYSTEM.—The term ‘advanced truck stop elec-
20 trification system’ means a system that delivers
21 heat, air conditioning, electricity, or communications
22 to a heavy duty vehicle.”.

